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A CASE STUDY OF PHILADELPHIA'S PRESERVATION POLICY:
THE SQUARE BLOCK OF CHESTNUT, WALNUT, FRONT AND SECOND
STREETS

Meghan MacWilliams

A THESIS

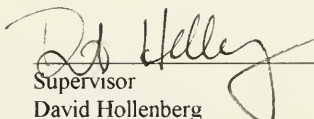
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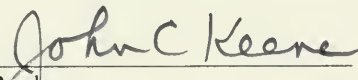
Historic Preservation


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MAPS

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This is a detailed historical map of the New York City waterfront, specifically the area between the Hudson River and the East River. The map is oriented with North at the top. It shows a grid of streets, with major streets labeled vertically (Seventh, Sixth, Fifth, Fourth, Third, Second, Front) and horizontally (Hudson Street, West Street, Broadway, Wall Street, Nassau Street, South Street, East Street). The map includes numerous small buildings, representing the dense urban development of the time. A red rectangle highlights a specific area in the center of the map, near the intersection of Third and Second Street. The waterfront area is filled with numerous sailing ships, and the city is shown with a dense grid of streets and buildings. The map is titled 'A Plan of the City of New York, as it appeared in 1827' and is published by 'J. B. Rieu, New York'.

1

Philadelphia - In the nation's birthplace, tourists snap photos of the Liberty Bell, guides lead visitors through Independence Hall and wrecking crews rip down historic buildings.¹

Philadelphia was one of the United States' earliest settled cities. By 1682, Philadelphia was already well inhabited with approximately 80 dwellings.² "During the 1680's and 1690's, Philadelphia rapidly established itself as the chief port of the Delaware River, serving as the commercial entry port for Pennsylvania, West New Jersey and the three lower counties of Delaware."³

Philadelphia became the trading center of the Delaware Valley not only because of its merchants, but also because of its craftsmen. By 1690, the earliest section of Philadelphia, closest to the Delaware River, had over 20 shopkeepers. There was also 119 craftsmen practicing approximately 35 different trades and businesses in town.⁴

This older, commercial area of the city is part of the section now referred to as "Old City" Philadelphia.

To protect the historic character of this early American city, under the Philadelphia Home Rule Charter of 1951, Philadelphia adopted a Historic Preservation Ordinance in 1955 (see appendix).⁵ This ordinance was the first historic preservation ordinance in the

¹ Dinah Wisenberg Brin, "Philadelphians Fight To Preserve History," Philadelphia Inquirer, Sunday, May 8, 1994, no page numbers.

² Richard Middleton, Colonial America: A History, 1607-1760 (Cambridge, MA: Blackwell Publishers, 1992), 135.

³ Russell E. Weigley, ed., Philadelphia - A 300 Year History (New York: A Barra Book Foundation Book, 1982), 18.

⁴ Roach, "Philadelphia Business Directory, 1693," 95-129.

⁵ Section I of Article XV of the Pennsylvania Constitution established that Philadelphia, as a "Home Rule Charter" city, "shall have and may exercise all powers and authority of local self-government. The City shall have the power to enact ordinances and make rules and regulations necessary and proper for carrying into execution its powers..." "Philadelphia Home Rule Charter 351 Section 1.1 -100.

United States to potentially have jurisdiction over an entire major American city. That is to say, unlike previous municipal preservation ordinances, it was not enacted to protect a particular area of the city, nor were any such areas indicated in the text of the ordinance itself. To administer the 1955 Historic Preservation Ordinance, the Philadelphia Historical Commission was created in 1956.⁶

With the passage of time, it became evident that Philadelphia's 1955 Preservation Ordinance lacked the strength needed to manage the change of the city's locally designated historic properties. In order to add strength to the Historic Preservation Ordinance for Philadelphia, City Council passed a new Preservation Ordinance on December 31, 1984. This new Preservation Ordinance went into effect April 1, 1985. The 1985 Preservation Ordinance (see appendix), replaced the PHC's Historic Preservation Ordinance of 1955 and gave the Philadelphia Historical Commission much needed additional powers.

The goal of this thesis is to analyze the preservation policy of Philadelphia's Preservation Ordinance as administered by the Philadelphia Historical Commission (PHC), to assess the effectiveness of this policy in managing change with respect to the historic resources of Philadelphia, and to evaluate the interaction between preservation events, "on the ground" and the evolution of this policy. Regarding such events "on the ground," this thesis will focus on a chosen case study location, the square block bounded by Front, Second, Chestnut and Walnut Streets, located in Old City. This site is one of the city's oldest developed blocks. Since Philadelphia's beginnings, this block, due to its close

⁶Office of the Mayor, Philadelphia, Pennsylvania, News Release (March 19, 1956).

proximity to the Delaware River, was the heart of city's industry and commerce. This block was the location of the Slate Roof House, former home of William Penn and later that of his secretary, James Logan ⁷

This square block case study area was chosen because a series of key events in Philadelphia's preservation history occurred here, many of which had direct effect on adjustments or alterations to the city's preservation policy, as this thesis describes. This block and other surrounding blocks in Old City were designated as a National Register Historic District on May 5, 1972.⁸ As stated in the nomination:

The Old City area is part of the original 1682 plan of the city of Philadelphia as laid out by Thomas Holme, surveyor of the province's proprietor, William Penn. In terms of architectural style and historic significance it remains one of the most important parts of the city. It includes some of the city's famous residences, historic churches, financial institutions, and perhaps most importantly, rare surviving 19th century commercial districts, probably without equal in the United States for their extent and diversity.⁹

More importantly than a national designation, all of the buildings in this case study square block were also individually designated to the Philadelphia Register of Historic Places.¹⁰

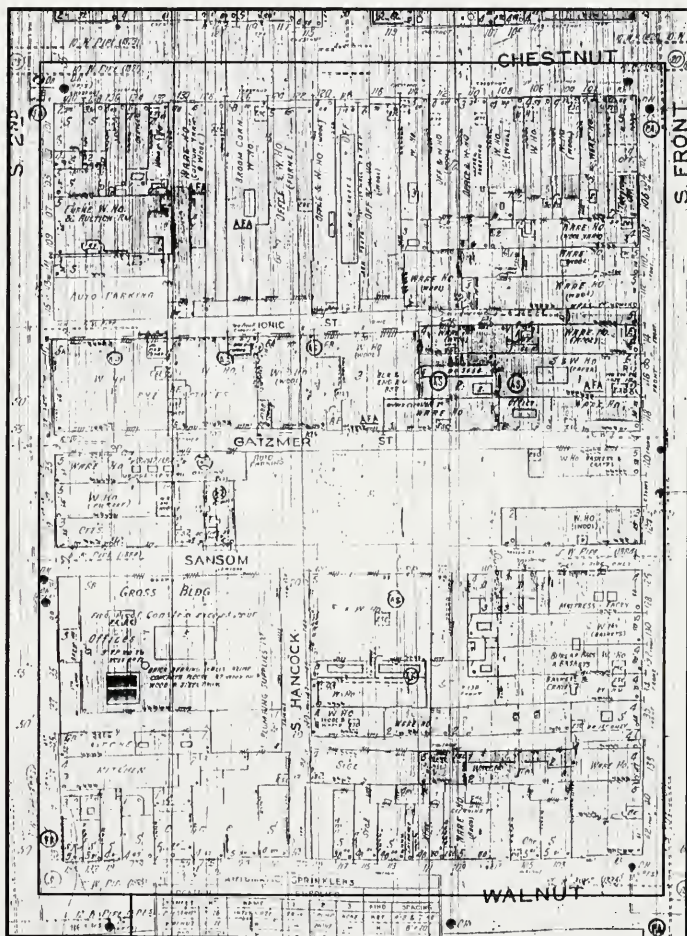
⁷ Russell E. Weigley, ed. 23.

⁸ "Old City National Register Nomination," May 5, 1972, (see appendix).

⁹ "Statement of Significance," Old City Historic District National Register Nomination, May 5, 1972. See appendix for boundaries of the Old City National Register Historic District.

¹⁰ As explained in chapter 2, sites that are individually designated to the Philadelphia Register of Historic Places receive more protection from development because all projects that can affect them are reviewed by the Philadelphia Historical Commission. Sites that are designated on the National Register of Historic Places only receive protection against federally funded or federally licensed projects, through the Section 106 review mandated by the National Historic Preservation Act of 1966. All of the buildings in the case study square block were "individually" designated to the Philadelphia Register of Historic places but not designated as a local district, because the Philadelphia Historic Preservation Ordinance of 1955, under which they were designated, did not allow for the designation of local historic districts.

CASE STUDY SQUARE BLOCK



Area F

Sanborn 1951

This square block had previously been incorporated in part of the 1971 Master Plan for Independence National Historic Park as “Area F.”¹¹ Just one year after the designation of the Old City Historic District to the National Register, a Memorandum of Agreement (MOA) was signed between the National Park Service (NPS), the Pennsylvania Bureau of Historic Preservation (BHP) and the Advisory Council on Historic Preservation (ACHP) acquiring this square block as “Area F” of the NPS. A key goal of Area F was to serve the need of parking for Independence National Historic Park (INHP).¹² As it turned out, only the northern portion, Front to Second Streets, Sansom to Ionic Streets, of the case study block, Area F, was utilized by INHP to create a parking garage for the visitors of INHP.¹³ Whatever historic integrity existed in 1971 of Second Street’s continuous streetscape of 19th century mercantile buildings was compromised by the Area F parking garage and the subsequent adjacent Welcome Park.¹⁴

The south half of the case study block (Sansom to Walnut Streets), on the other hand, exhibits preservation policy deficiencies with respect to the interactions between

¹¹ Penelope Hartshorne Batcheler, Historic Structures Report for Area “F” Independence National Historic Park, Mid Atlantic Team: Denver Service Center, September, 1978, 1-4. “Planning for the development and management of Independence National Historical Park has been in progress since 1950, and has culminated in a Master Plan prepared by an interdisciplinary team, guided by a steering committee composed of National Park Service officials, Dr. S. K. Stevens of the Pennsylvania Historical and Museum Commission, Mr. William Forrey of the Pennsylvania Bureau of State Parks, Mr. Paul L. Thomas of the Pennsylvania Department of Highways and Mr. Edmund L. Bacon, Philadelphia City Planning Commission. The Master Plan was approved in 1971.”

¹² Memorandum of Agreement between the Advisory Council of Historic Preservation, Mid-Atlantic Region of the National Park Service and the Pennsylvania State Historic Preservation Officer, August 29, 1973.

¹³ Penelope Hartshorne Batcheler, Historic Structures Report for Area “F” Independence National Historic Park, Mid Atlantic Team: Denver Service Center, September, 1978, 2.

¹⁴ The Welcome Park is an interpretive site of the former Slate Roof House. The site is discussed in Chapter 3. The historic streetscape on Front Street had already been lost due to a sewer project in 1965. A few properties on Front Street, such as the Elisha Webb Chandleiry were spared.

private property owners, the City of Philadelphia and the Philadelphia Historical Commission. Such issues as demolition due to financial hardship, and neglect of a structure to the point of “imminent danger” have led to the assemblage of an ever-enlarging surface parking lot, the most common form of “land-banking” in inner cities. The parking lot serves Old Original Bookbinders Seafood Restaurant, located at the corner of Second and Walnut Streets.

Chestnut Street, is a positive preservation example within the case study square block. This street at the northern edge of the case study square block, stands as a remarkably intact streetscape, an example of what once stood in this area.

The focus of this thesis is thus, not just a history of the study area, (although that is part of it), but an analysis of those failures in Philadelphia’s preservation policy that led to demolition of so many nationally and locally designated buildings, and the response to those failures that were made (or initiated) through adjustments to policy. What went so wrong, that a once thriving historic square block is now made up of separate land uses that have no relationship to each other? In my research, I will show the relationships among the issues of the site, modus operandi of the Philadelphia Historical Commission and contemporary preservation policies and legal decisions. My goals are to assess what went wrong here, how the city has attempted to adjust its policies in response to these problems and to suggest additional possible ways to fix the problems.

The following chapters focus on the various issues that have played a role within this case study block. In chapter two, I will address the role of the Philadelphia Historical Commission: how it was formed in Philadelphia’s City Government, how it receives its

regulatory power and how its decisions are made and enforced. In chapter three, the impact of the National Park Service and its 1971 Master Plan, which created this block as Area F, will be evaluated. In chapters four through seven, I will study specific buildings on the south half of the block, in chronological order of their loss or degradation. In chapter eight, Chestnut Street, which is located to the north of the Area F parking garage, will be briefly studied and in chapter nine I will draw a conclusion of my findings. The purpose of this thesis is to create a picture of the evolution of this block from its earliest years to what is now a block stripped of its historical context.

Chapter 2

The Philadelphia Historical Commission



In 1955, Philadelphia enacted the first historic preservation ordinance that enabled the potential jurisdiction over an entire city (not just specific areas within the city) in the United States. With this Ordinance, the creation of the Philadelphia Historical Commission (PHC) in 1956, shortly followed.¹⁵ Under the 1955 Preservation Ordinance, the PHC was an “Advisory Commission on Historic Buildings; prescribing duties for the Department of Public Property and for the Department of Licenses and Inspections.”¹⁶ The 1955 Ordinance gave the Commission, only a limited amount of power, such as the ability to designate individual sites to the Philadelphia Register of Historic Places and the ability to impose a six month delay for demolition.¹⁷ Within the six month delay period, it was the responsibility of the PHC to attempt to find ways to preserve the historic buildings that were proposed to be demolished.¹⁸

In order to instill more power and more flexibility to the PHC, a new ordinance was passed by City Council, on December 31, 1984 which went into effect April 1, 1985.¹⁹ This new ordinance strengthened the PHC in numerous ways, one of which was by establishing the PHC as an individual municipal agency with a specific purpose:

The Philadelphia Historical Commission, as the municipal historic preservation agency, ... bears the responsibility to designate buildings, structures, sites, objects and districts as historic, to review and act upon all permit applications for

¹⁵ The Philadelphia Code, Section 14-2007, Bill number 318. Philadelphia Historic Preservation Ordinance, 1985.

¹⁶ The Philadelphia Code, Section 14-2007, Bill number 493. Philadelphia Historic Preservation Ordinance of 1955.

¹⁷ Dr. Richard Tyler, Historic Preservation Officer of the City of Philadelphia. Interview with Meghan MacWilliams, March 19, 1999.

¹⁸ The Philadelphia Code, Section 14-2007, Bill number 493.

¹⁹ Dr. Tyler, Interview with Meghan MacWilliams, March 19, 1999.

the alteration or demolition of designated cultural resources, to make recommendations to the Mayor and City Council to further historic preservation in the city, and to promote public awareness of the values of historic preservation.²⁰

As stated in the 1985 Ordinance, the authority to enact this ordinance rests not only on the City's Home Rule Charter, but also on Article I, Section 27 of the Pennsylvania Constitution which was amended in 1971 to grant municipalities "police power".²¹ This police power enables the City, along with other municipalities of the Commonwealth, the right to grant its citizens health, prosperity and general welfare of historic preservation.²²

In the early half of the century, courts across the United States generally interpreted the purposes of police power very strictly; i.e. "the definitions of health, safety, morals, and welfare were narrowly drawn. Issues such as emotional well-being and a community pride, aesthetics and overall well being did not meet the narrow definition."²³ "This stringent view of police power is referred to as the 'traditional' or 'early' position of the courts."²⁴

Pennsylvania has generally held such a traditional position towards police power. The Pennsylvania Supreme Court has held that "aesthetics alone may not serve as a basis for police power regulation," so it is critically important to demonstrate that historic preservation ordinances promote other public purposes as well, such as protecting

²⁰ Philadelphia Historical Commission, Rules and Regulations, Adopted August 8, 1990, Amended December 4, 1997. I. The Preservation Ordinance of 1985, Section 14-2007 of the Philadelphia Code. "Historic Buildings, Structures, Sites, Objects and Districts:"

²¹ The Philadelphia Code, Section 14-2007, Bill number 318.

²² Pennsylvania Constitution, Article I, Section 27.

²³ Sarah L. Goss, Esq., "Propriety of Using The Police Power For Aesthetics Regulation," (Washington DC: National Park Service and National Center for Preservation Law, 1992), introduction.

²⁴ Goss, introduction.

neighborhood property values, transmitting cultural values to future generations, and promoting tourism.²⁵

The power of the PHC is only as strong as Pennsylvania's state enabling power and the power of the Philadelphia Home Rule Charter. Based on the combination of these two powers, the 1985 Philadelphia Historic Preservation Ordinance provides:

(1) Declaration of public policy and purposes

(a) It is hereby declared that as a matter of public policy that the preservation and protection of buildings, structures, sites, objects and districts of historic, architectural, cultural, archaeological, educational and aesthetic merit are public necessities and are in the interests of the health, prosperity and welfare of the people of Philadelphia.

(b) The purposes of this section are to:

- (1) preserve buildings, structures, sites and objects which are important to the education, culture, traditions and economic values of the city;
- (2) establish historic districts to assure that the character of such districts is retained and enhanced;
- (3) encourage the restoration and rehabilitation of buildings, structures, sites and objects which are designated as historic or which are located within and contribute to the character of districts, designated as historic without displacing elderly, long-term, and other residents living within those districts;
- (4) afford the City, interested persons, historical societies and organizations the opportunity to acquire or to arrange for the preservation of historic buildings, structures, sites and objects which are designated individually or which contribute to the character of historic districts.

²⁵ Goss, 117. The case of Berman v. Parker, 348 U.S. 26, 32-33 (1959), justified the use of police power for historic preservation ordinances -- to regulate for aesthetics as part of an urban renewal program. The court ruled: "The values [that police power] represents are spiritual as well as physical, aesthetic as well as monetary. It is well within the domain of legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled." Andrea Merril Goldwyn, Demolition by Neglect: A Loophole in Preservation Policy, Master of Science in Historic Preservation Thesis, University of Pennsylvania, 1995, 17.

- (5) strengthen the economy of the City by enhancing the City's attractiveness to tourists and by stabilizing and improving property value and,
- (6) foster civic pride in the architectural, historical, cultural and educational accomplishments of Philadelphia.²⁶

Some major changes in the 1985 Preservation Ordinance were the ability for the PHC to nominate historic districts to the Philadelphia Register of Historic Places, the expanded membership of the Board of the PHC, the requirement of regular maintenance of locally designated properties, and the affirmative ability of the PHC to deny applications for demolition of historic buildings, (not merely for the six month stay as in the 1955 ordinance).²⁷ The PHC could require proof of financial hardship before it would grant a permit for demolition because of financial hardship. As written in the 1985 ordinance:

No permit shall be issued for the demolition of an historic building, structure, site or object, or of a building, structure, site or object, located within an historic district which contributes, in the Commission's opinion, to the character of the district, unless the Commission finds that issuance of the permit is necessary in the public interest, or unless the Commission finds that the building, structure, site or object cannot be used for any purpose for which it may be reasonably adapted. In order to show that a building, structure, site or object cannot be used for any purpose for which it is or may be reasonably adapted, the owner must demonstrate that the sale of the property is impracticable, that commercial rental cannot provide a reasonable rate of return and that other potential uses of the property are foreclosed.²⁸

²⁶ Philadelphia Code, Section 14-2007, Bill No.318, APP. NO. 566-3

²⁷ Randal Baron, Assistant Historic Preservation Officer for the City of Philadelphia, Interview with Meghan MacWilliams, April 14, 1999.

²⁸ Philadelphia Code, Section 14-2007, Bill No.318, APP. NO. 566-14-15.

Under the 1985 Ordinance, the Philadelphia Historical Commission membership was expanded to a 14 member Board are appointed by the Mayor. Six of the members of the Commission are ex officio from relevant city offices: the Department of Licenses and Inspections (L. and I.), Housing and Community Development, Public Property, Department of Commerce, City Planning Commission, and City Council. The remaining eight members of the Commission must work outside of city agencies and “be learned in the historic traditions of the City and interested in the preservation of the historic character of the City.” Of these eight members, there shall be at least one architect experienced in historic preservation, one historian, one architectural historian, one real estate developer, one representative of a Community Development Corporation and one representative of a community organization.²⁹

For properties that are locally designated, all proposed work that requires a building permit must be reviewed by the Philadelphia Historical Commission.³⁰ The Commission currently has a staff of seven professionals who review projects as they come into the office. Depending on the project, the staff may chose to have one of the Commission’s three technical advisory committees: the Architectural Committee, the Historic Designation Committee and the Financial Hardship Committee, to also review the project. The Committees are non-voting bodies, advisory to the Commission that are

²⁹ Ibid. The 1955 Ordinance only established a seven member Board, which consisted of the “Director of Finance, the Commissioner of Public Property and five persons learned in the historic traditions of the City and interested in preserving the historic buildings.” Philadelphia Code, Section 14-2007, Bill No. 493.

³⁰ PHC, Rules and Regulations, 1997, 19. Non-designated buildings do not construction permits for roofing, pointing, replacing doors and/or windows, painting of exterior surfaces other than trim and masonry cleaning but designated buildings do.

appointed as professionals with special expertise.³¹ Each committee is chaired by a Commission member. The technical advisory committees offer their findings on cases to the Board of the Commission who makes the final decision for the projects. An applicant wishing to appeal a decision made by the Board of the Commission, directs their appeal to the Licenses and Inspection Review Board. Beyond the level of the L. and I. Review Board, an appeal can be directed to the Philadelphia Court of Common Pleas.³²

The PHC as a municipal agency must ultimately answer to the public and the Mayor.³³ In order for the PHC to enforce its rules and regulations, it must rely on the Department of Licenses and Inspections. If a case goes to trial, the PHC must use city solicitors to present its cases. Dr. Richard Tyler, the current Historic Preservation Officer for Philadelphia (who is also a lawyer), on occasion has been allowed to present the PHC's cases to the L. and I. Board of Review.³⁴ If a case goes beyond that level however, such as to the Court of Common Pleas, a city solicitor must present the case. Dr. Tyler stated that, although he may suggest what solicitor the PHC would like to have to represent them, he is not always granted his request. Many of the city solicitors that the PHC has dealt with, are fresh out of law school, have very little trial experience or have

³¹ Elizabeth Harvey, Preservation Planner for the Philadelphia Historical Commission, Interview with Meghan MacWilliams, March 30, 1999.

³² Ibid.

³³ In regards to the executive and administrative duties of the Philadelphia Historical Commission and its Historic Preservation Ordinance, Philadelphia Home Rule Charter states that, "The executive and administrative power of the City, as it now exists, shall be exclusively vested in and exercised by a Mayor and such other officers, departments, boards and commissions as are designated and authorized in this charter." Philadelphia Home Rule Charter 351, Section 1.1 -102.

³⁴ Dr. Tyler, Interview with Meghan MacWilliams, March 19, 1999. Dr. Tyler stated that with himself representing the PHC in front of the L and I Review Board, the PHC is winning more than half of their cases, which is more than they were when a city solicitor was representing the PHC in front of the L. and I. Review Board.

very little knowledge of preservation law.³⁵ It is also typical that the solicitor is simultaneously involved in, if not overworked by, the case load of other city agencies. The PHC's budget is smaller than most city agencies, so it often runs out of money before the end of the fiscal year. Without a city solicitor, the PHC cannot go to trial and will therefore lose the case.³⁶ If the PHC loses a case, its argument from the PHC's side is over. The case can however be tried again if a private organization that shares the PHC's interests sues the offending party.

Philadelphia is also a Certified Local Government pursuant to the National Historic Preservation Act of 1966.³⁷ This status has enabled the Philadelphia Historical Commission, through a Programmatic Agreement with the Pennsylvania Bureau of Historic Preservation and the Advisory Council on Historic Preservation to perform Section 106 reviews for projects affecting nationally designated individual sites and districts, or eligible sites and districts. This review is done for any project that has a federal agency's involvement. The effect of that federal agency on the nationally designated site is reviewed and, if need be, mitigated.

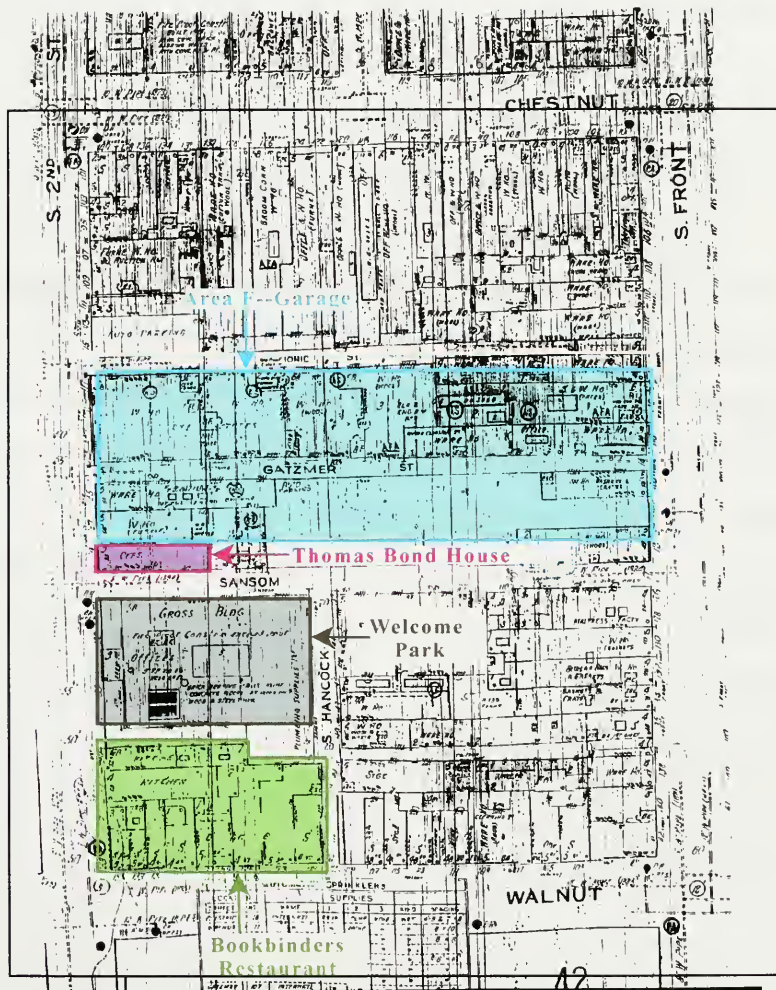
³⁵ Ibid.

³⁶ Ibid.

³⁷ Elizabeth Harvey, Interview with Meghan MacWilliams, March 30, 1999. "A certified local government is a local government whose historic preservation program has been certified pursuant to section 101(c)(1) of the National Historic Preservation Act Department of the Interior regulations at 36 CFR Part 61 govern this certification process." ACHP web page, <http://www.achp.gov/localgov.htm>.

Chapter 3

The National Park Service's Role within "Area F"



Sanborn 1951

Area F

The National Park Service (NPS) contributed to the loss of much of the historic fabric of the case study square block. "Area F" was created in the 1971 Independence National Historic Park (INHP) Master Plan associated with the enlargement to the Park's facilities through the development of Independence Mall area, bounded by Sixth, Fifth Chestnut and Race Streets. Area F was INHP's answer to parking for tourists. INHP chose the case study square block for Area F for a number of reasons. First, it was a logical site for parking. According to Penelope Hartshorne Batcheler, then a Historic Architect for INHP, this square block "already had large parcels (of land) with large structures uncharacteristic of the rest of the historic district".³⁸ Another reason was because of the desire to reroute traffic away from the Independence Mall area. At the time of the Master Plan of 1971, the highway traffic pattern placed visitors at Independence Hall, at 6th and Chestnut Streets. Such high traffic congestion was felt to be detrimental to the physical condition and visitor experience of the historic structures of the area, as well as to the interpretation of the Park. Therefore with the construction of I-95, traffic was rerouted to the east end of the Park in Old City.³⁹ These transportation developments were undertaken in light of the following considerations:

- The need to minimize impact on historical values preserved in the Park
- Continued urban revitalization

³⁸ Penelope Hartshorne Batcheler, "Historic Structures Report Area F, Independence National Historic Park," Mid-Atlantic Team: Denver Service Center, National Park Service, September, 1978, 13.

³⁹ National Park Service (NPS), Mid-Atlantic Regional Office (MARO), "Final Environmental Statement of Independence National Historic Park, Area F", US Department of the Interior, FES 76-10, March 1, 1976, 1-6. The I-95 Vine Street exit under consideration at the time, would have led people into Area "F". I-95 was scheduled for completion in 1980 - 1981.

- Desirability of spreading visitor impact throughout the Park rather than concentrating it on Independence Mall
- The opportunity to strengthen interpretation by introducing visitors to the major historic sites and structures in the order in which the structures hosted great events (the former site of the Slate Roof House, City Tavern to Carpenters Hall to Independence Hall to Congress Hall)
- The desirability of gaining control of the block between the Park and Penn's Landing and providing both a physical and visual link between the two
- The opportunity to cooperate with the city to revitalize the Area F block in a manner which would encourage retention of most of its surviving structures ⁴⁰

In 1971, Mayor James Tate approved the recommendations of the National Park Service to "expand the boundaries of Independence National Historic Park to acquire land for the parking garage and pedestrian walkway."⁴¹ Part of this expansion, Area F, was the square block of Chestnut, Walnut Streets, Front and Second Streets. The resulting parking garage, however, only covers specifically the block bounded by Ionic, Second, Sansom and Front Streets, and contains 1.348 acres(see map page 17).⁴² Area F was made possible because of Public Law 93-477 which amended the Act authorizing establishment

⁴⁰ NPS, MARO, "Final Environmental Statement of INHP, Area 'F'", 1-6.

Another possible reason why this area was chosen as Area F could be because it was designated by the City Planning Commission as "blighted" in the early 1960's. None of the National Park Service archives regarding the acquisition of this land addresses this issue, however records regarding this area's blight status were found at the Philadelphia Historical Commission Archives. Area F was part of the overall Center City Redevelopment Area certified by the City Planning Commission. The "Area F Urban Renewal Plan" report stated that the original Redevelopment Area Plan was published on January 8, 1963 and was amended on July 20, 1971. In the 1971 plan, the area was defined as "blighted" according to the Pennsylvania Urban Redevelopment Law of 1945. The blighted characteristics that the area exhibited were: unsafe, unsanitary, inadequate, or overcrowded conditions of certain buildings; inadequate planning of the area; excessive land coverage; lack of proper light, air, and open space; faulty street and lot layout; defective design and arrangement of buildings; economically undesirable land use. "Area F Urban Renewal Plan" Draft, 1971, 2. Area F File, PHC Archives.

⁴¹ Mayor James H. J. Tate, Letter to Mr. Chester L. Brooks, Superintendent United States Department of the Interior, National Park Service, Independence National Historic Park, July 18, 1971.

⁴² Ibid.

of the Independence National Historic Park (PL 80-795).⁴³ Public Law 93-477 authorized the Secretary of the Interior

To enter into an agreement or contract with the city of Philadelphia under which the City shall develop, improve, maintain and operate a portion of the acquired lands as a public parking facility for visitors to Independence National Historic Park. Upon amortization of the City's investment in construction of the facility, title to the parking structure will pass to the Federal Government. With respect to the remainder of the block, the Secretary's authority to acquire by condemnation is suspended during the time the City of Philadelphia has in force and applicable to such property a duly adopted, valid zoning ordinance approved by the Secretary.⁴⁴

This square block that was being condemned via police power was part of the Old City Historic District that was listed on the National Register of Historic Places on May 5, 1972.⁴⁵ In compliance with the provisions of Section 106 of the Historic Preservation Act of 1966, on September 9, 1973 the Independence National Historic Park (INHP), the Pennsylvania Bureau of Historic Preservation and the Advisory Council on Historic Preservation entered into a Memorandum of Agreement (MOA) designating this square block "Area F" of INHP.⁴⁶ The MOA was drafted in order to mitigate the adverse effect

⁴³ National Park Service, Mid-Atlantic Regional Office, "Final Environmental Statement of Independence National Historic Park, Area F", US Department of the Interior, FES 76-10, 1-1. The original Act, which established the INHP and its boundaries within Philadelphia, is dated June 28, 1948 (16 U.S.C. 407m).

⁴⁴ *Ibid.*, 1-1.

⁴⁵ Old City National Register Nomination, May 5, 1972. See map of Old City National Register District in appendix.

⁴⁶ Penelope Hartshorne Batcheler, Historic Structures Report for Area "F" Independence National Historic Park, Mid Atlantic Team: Denver Service Center, September, 1978, 2.

that the demolition of several contributing structures would have on the Old City Historic District

The public purpose behind this use of police power to condemn this block of Ionic, Second, Sansom and Front Streets was that the conversion of this once historic square block into a multilevel parking garage that could handle 550 cars would realize a critical component of the Master Plan for INHP.⁴⁷ The parking garage and its location directly beyond the proposed on/off ramp for I-95 was to make visiting INHP, a park within a highly congested traffic area of center city Philadelphia, more convenient.⁴⁸

The MOA was made with “the proviso that its plan (for a parking garage) be reviewed and that consideration be given to preserve the facades of several of the 19th century buildings in the path of the parking garage.”⁴⁹ The ideas behind the MOA was that the facades of the historic buildings be saved and incorporated into the facade of the parking garage.⁵⁰ This solution proved to be impractical. The only building retained in place was 129 South Second Street, the c.1765 Thomas Bond House, saved and restored as a bed and breakfast with the historic preservation tax credit program.⁵¹ Ionic Street was planned to be, and presently serves as, a pedestrian mall.

⁴⁷ Ibid., I-1.

⁴⁸ Dr. Tyler. Interview with Meghan MacWilliams, March 19/19/99. Tyler noted that Pennsylvania Department of Transportation’s (Penn DOT) final design for I95 changed, and the proposed on/off ramp near the parking garage at Area F was completed before the ramp location was changed. This change in Penn DOT’s final plan has led traffic for INHP away from the parking garage; therefore the problem of parking for INHP is not fully solved.

⁴⁹ Batcheler, 3.

⁵⁰ Ibid.

⁵¹ Ibid. The Bond House is described in more detail later in this chapter.

The National Park Service argued that a parking facility in Area F was needed to serve both Park visitors and residents and commercial activities nearby.⁵² At the time of its creation, Area F was interpreted as a supportive attribute to the revitalization of the commercial activity in the Old City Historic District. Most of the 18th and 19th century structures survived in the Old City area, and although most were deteriorated and underutilized, they did have rehabilitation potential. The National Park Service stressed that this garage would help city agencies “to do here what has been done in Society Hill in reversing the trend of deterioration.”⁵³ Essentially, NPS and the City, while acknowledging that Area F had historic buildings, felt it to be the best location, from a planning standpoint, for the necessary facilities. The goal behind the creation of Area F was to make Old City a more convenient location to visit.⁵⁴ The idea was that if people could park easily, they would be more likely to come to Old City. Old Philadelphia Development Corporation (OPDC) had also hoped that the:

Completion of the planned parking garage will not only serve the city, but also the growing nighttime entertainment district emerging in this area, as well as providing a ‘backup’ parking resource for the developing Penn’s Landing project.⁵⁵

⁵² NPS, MARO, “Final Environmental Statement of INHP, Area ‘F’”, 1-6. The parking of Area F was created to replace the NPS parking that was on 3rd and Chestnut Streets. 3rd and Chestnut Streets is now the site of the Visitors’ Center.

⁵³ Ibid.

⁵⁴ NPS, MARO, “Final Environmental Statement of INHP, Area ‘F’”, 1-8.

⁵⁵ James Martin, Executive Director of Old Philadelphia Development Corporation, letter to Chester Brookes, Director of the Northeast Region of the National Park Service, October 30, 1973.

With this positive assessment of the creation of Area F, the NPS considered that the proposal, as a whole, would increase the probability that “the visual and architectural character of the Old City Historic District could be retained.”⁵⁶

“According to the Federal legislation that created Area F, Area F was supposed to have height controls for the area.”⁵⁷ In order to help mitigate some of the adverse effect that the garage would have on the streetscape of this area, a height ordinance was to be created to control the development in the surrounding area. The NPS, Mid-Atlantic Regional Office (MARO) Environmental Statement commented that careful design should be used for the garage. The structure should no be taller than the existing buildings.⁵⁸ The maximum height for new construction in this area (i.e. the parking garage) was stated in the Urban Renewal Plan to be 55 feet, and a minimum of 25 feet.⁵⁹

The Urban Renewal Plan stipulated that it was vital to save the area surrounding the parking to promote the “educational, cultural, economic and general welfare to the City of Philadelphia.”⁶⁰ “The preservation of these existing buildings was also seen to be crucial for minimizing the intrusiveness of the new parking garage on the rest of the National Park and Old City.”⁶¹

⁵⁶ Ibid., 111-1.

⁵⁷ Dr. Tyler, Interview with Meghan MacWilliams, March 19, 1999. Tyler stated that the height restrictions could only be imposed if the city adopted a height ordinance, which the city never did. This lack of height restrictions could be a potential problem because now there is much vacant land in the surrounding block. As stated by Dr. Tyler, “Properties in the area are zoned C3, which has a basic Floor Area Ratio (FAR) of 5, so that, if somebody had a 100% site coverage on their lot they could build 5 stories, but if somebody chose to build on only half of their lot they could build 10 stories etc.”

⁵⁸ Ibid., 111-2.

⁵⁹ “Area “F” Urban Renewal Plan” Draft, no date, 4. Area F File, PHC Archives.

⁶⁰ Ibid. 1.

⁶¹ Ibid.

The Thomas Bond House, 129 South Second Street

The Thomas Bond House, 129 South Second Street was a major consideration in the NPS acquisition of the land in Area F. This historic structure was saved, despite for the construction of the National Park Service's Area F Parking garage, as part of the MOA between the NPS and the City of Philadelphia.⁶² Many people were subsequently involved in the research of this property in order to have as accurate a rehabilitation as possible.⁶³ Through everyone's efforts, it was learned that the Bond House has a core that was built c. 1769 by Dr. Bond, Senior. Changes were made to the building in the 19th century. In 1824, a four foot extension with a new facade was added to the west, and in the approximately the in 1850's, the building was extended eastward to the rear.⁶⁴

The Bond House was restored and rehabilitated for use as a bed and breakfast using Historic Preservation Investment Tax Credits.⁶⁵ The project was completed in 1986 and the bed and breakfast officially went into business.⁶⁶ The National Park Service owns the building but shareholders own the bed and breakfast business. The shareholders are

⁶² Memorandum of Agreement between the Advisory Council of Historic Preservation, North East Region of the National Park Service and the Pennsylvania State Historic Preservation Officer, 8/29/73.

⁶³ Batcheler, 5. Some of the many people involved in the restoration of the Bond House were: the tenants of the Bond House, Mr. Frank Fisher of Resin Research Corporation, Carol Wojtowicz, archivist of the Mutual and Contributorship Fire Insurance Companies, Eshback, Glass and Associates architects, Site Engineers, Inc., photographers Anthony S. Bley and George Eiseman, historical architect John Ingle of NPS MARO, and Historian Jerome A. Greene of Denver Service Center and Temple University Department of Archaeology

⁶⁴ *Ibid.*, 4. The project was put on hold indefinitely during the 1980 fiscal year due to research problems. Batcheler explains that originally 129 South Second Street was believed to be the home of Robert Fulton. Later research determined that Dr. Thomas Bond, not Fulton lived here. Research shows that Fulton possibly lived further up the block.

⁶⁵ *Ibid.*

⁶⁶ Michael Guinn, Assistant innkeeper of the Thomas Bond House. Interview with Meghan MacWilliams, March 6, 1999.

business men from various backgrounds who became involved in the project for the tax credit.⁶⁷ According to the assistant innkeeper, Michael Guinn, the inn has been “very well received and is currently making a considerable profit.”⁶⁸ An offer has been made to the shareholders to take over 149 South Hancock Street, also known as the Bouvier House, a nearby troubled property described in Chapter 5. The shareholders have not yet made a decision.⁶⁹

The Welcome Park, 131 South Second Street

Site of the Former Slate Roof House

The former site of the Slate Roof House, 131 South Second Street, was also taken over by INHP. The Slate Roof House was the former home of William Penn and other political figures of Philadelphia, such as Samuel Carpenter and Penn’s Secretary, James Logan. It is believed that the Slate Roof House last served as a boarding house, whose guests included John and Sam Adams, and John Hancock.⁷⁰ The history of 131 South Second Street thus holds much of the significance to the interpretation of the 18th century. The acquisition and restoration of this site, however, was not addressed in Public Law 93-477, nor was it addressed in the 1973 MOA between ACHP, INHP and BHP.⁷¹

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Thomas Hine, “Welcome Park Exposed Look Overshadows its Tribute to Penn,” The Philadelphia Inquirer, January 14, 1989, D1.

⁷¹ The plan of the garage did not threaten the site, which it did of the Bond House, which is most likely why it was not addressed like the other historic sites deemed to be saved by the NPS, ACHP and BHP.

The Slate Roof House had stood for almost two hundred years before it was razed in 1867 to make room for the Commercial Exchange Building which in turn was later replaced by the Keystone Telephone Building.⁷² At the time of the MOA, the former Keystone Telephone Building was still standing on the site of the Slate Roof House. In 1979, in preparation for the coming Tercentenary Celebration of William Penn's arrival in Pennsylvania, the Friends of Independence National Historic Park (FINHP) raised \$1.4 million and purchased the land of the former Slate Roof House.⁷³ The Keystone Telephone Building was razed and plans began to reconstruct the famous former home of William Penn.⁷⁴ As an interpretation of William Penn in this area of Old City, the site adds to INHP's plan of educating visitors to the Park of the progress of the city's growth from where Penn and the first settlers of Philadelphia landed in the Delaware, to the former site of the Slate Roof House, Christ's Church, the City Tavern, the First Bank, and eventually to Independence Hall.

Plans to reconstruct the Slate Roof House were based on archival evidence, such as photographs taken before the demolition, insurance surveys from 1773-1785 and tax maps. A site plan made by James Logan, c. 1751, was also available and yielded such information as outbuilding locations and dimensions.⁷⁵ Archaeology was also a possibility, due to the fact that the structures built on the site of the Slate Roof House (first the

⁷² Philadelphia Historical Commission Archives: 131 South Front Street.

⁷³ Hine, "Welcome Park Exposed Look Overshadows its Tribute to Penn," D1. The Tercentenary Celebration was in 1982. Friends of INHP is a non-profit corporation organized under the laws of Pennsylvania for the purpose of supporting and promoting INHP.

⁷⁴ Ibid.

⁷⁵ Venturi & Rauch, John Milner & Associates, "A Feasibility Study for the Tercentenary Commemoration of William Penn and the City of Philadelphia 1682-1982", November 1979, 19-25.

Commercial Exchange, then the Keystone Telephone Company Building) were set back from the Slate Roof House's original building line.⁷⁶ To answer questions about the interior design of the building, field sketches and a floor plan from 1867 by William J. Clark, Jr., was also going to be used in the reconstruction. With all of the archival evidence available, there were still many unanswered questions, especially to about the forecourt and the stairs of the structure.⁷⁷

As described by one architectural historian:

The most important - though hardly the most typical - of early Philadelphia houses was the Slate Roof House, which stood at the corner of Second Street and Norris Alley until its demolition in 1867. Its appearance is known to us from a drawing of 1830. This land belonged to the wealthy merchant Samuel Carpenter and was built on land purchased by him at the founding of the colony. It was certainly completed by 1699, for William Penn occupied it in January 1700 on his second visit to the city, and it may have been finished by 1687. The Slate Roof House was one of the earliest Georgian buildings in the colonies. It was built on an H-shaped plan, such as has been used in some of the English manor houses of Elizabethan or Jacobean times. The formal composition, horizontal emphasis, hipped roof, modillioned cornice, and pedimented doorway all reveal the advent of Renaissance architectural influences. The windows, however, were still filled by medieval type of diamond-shaped panes; these remained in place through the eighteenth century but had evidently been replaced by sliding sash....⁷⁸

⁷⁶ *Ibid.*

⁷⁷ *Ibid.*

⁷⁸ Hugh Morrison, Early American Architecture, (New York: Dover Publications, Inc., 1987), 514. Morrison refers to: Kimball, Domestic Architecture of the American Colonies and of the Early Republic (New York: Charles Scribner's Sons, 1922), 290.

A variety of schemes were developed to interpret the site, such as: a reconstructed house with a loggia, a reconstructed house with a museum building in the back, an open plan house (similar to the one in Franklin Court) but with a loggia, and a park commemorating Penn.

The latter was the final plan chosen, and the site, is today known as “Welcome Park.” The plans for a reconstruction were not implemented mainly because the NPS determined that the reconstruction could not be 100% accurate and NPS did not want to falsify history.⁷⁹ Moreover, research of the site showed that a properly sized reconstruction of the Slate Roof House could not be accomplished in either a new building or a “ghost” frame of what Penn’s home once was. It turns out that, at approximately the same time as the plans for the development of a site of the Slate Roof House were being formulated, the neighboring property, Bookbinders Restaurant, had expanded its property 15 feet to the north into the Slate Roof House site. Bookbinders had also added a 25 foot high wall to screen the operations of its kitchen and loading areas.⁸⁰ This reduction of 15 feet from the original parcel of the Slate Roof House would have altered the setting considerably and therefore any actual reproduction of the former Slate Roof House could have been accurately scaled. This was not acceptable to the National Park Service.

The Welcome Park, which stands in remembrance of the historic Slate Roof House, was built not simply as a pocket park but as an educational and communicative

⁷⁹ Robert Craig, Architectural Historian, Interview with Meghan MacWilliams, February 24, 1999. Thomas Hine, “Welcome Park Exposed Look Overshadows its Tribute to Penn,” The Philadelphia Inquirer, January 14, 1989, D1.

⁸⁰ Hine, “Welcome Park’s Exposed...”, D1.

park.⁸¹ The name was chosen based on the fact that the “Welcome” was the ship that Penn arrived on.⁸² The park was designed by Venturi and Rauch. The plan’s paving and planting pattern is essentially a microcosm of Penn’s original design for Philadelphia. At the center of the Park, like in the center of Philadelphia (on top of City Hall) stand a statue of William Penn.⁸³ Contemporaneous descriptions of the park’s design offer a positive interpretation of the site:

Welcome Park can be viewed as anything from an outdoor book about William Penn and Philadelphia to a plaza welcoming people who have pulled into the parking garage next door...The design of the park is more about the time period in which it was developed than the time in which it memorializes...The Welcome Park, along with Franklin Court, another site design by Venturi and Rauch, is located on site of the buildings that are long gone, which key figures of our history once lived. They (the two sites) allow visitors to stand on the very spot where the great man once stood, while reminding them that everything has changed completely since.⁸⁴

Although such contemporary responses to the design of the park seem to appreciate the lay out of the site as a microcosm of the city that serves as an educational tool for its visitors, there are many problems with the park. One problem is that the park is an open lot, like the properties to the south of the case study square block, therefore, the park adds to the void in the streetscape. An additional problem, is that it fails as interpretation of the former site of the Slate Roof House. Only one modest image of the Slate Roof House is utilized. It is hard for many visitors to the park to understand what

⁸¹ Ibid.

⁸² Ibid.

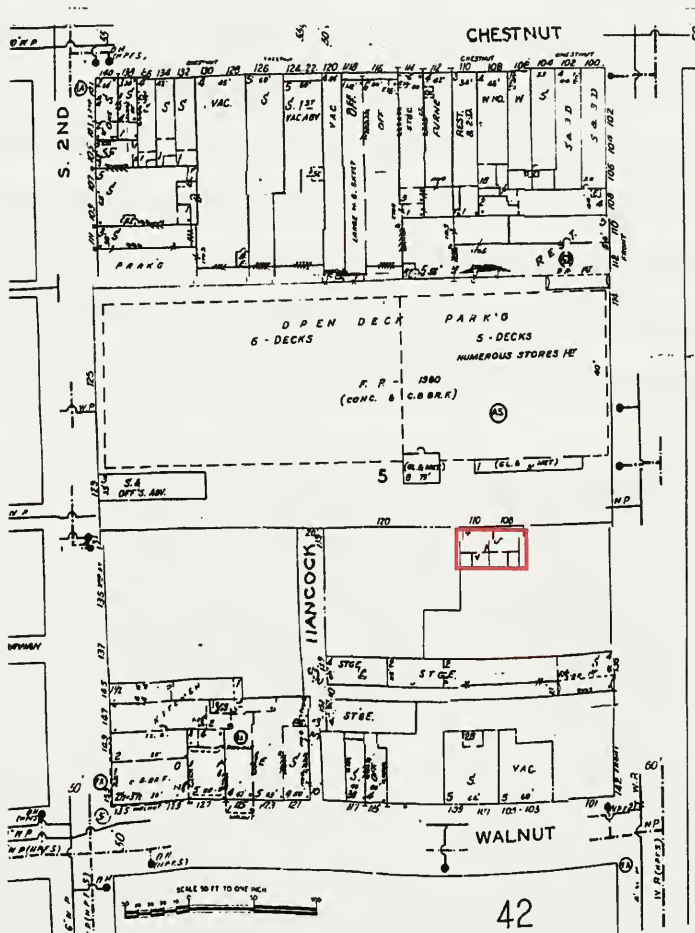
⁸³ Ibid.

once stood here with only one small image and no sense of the scale or space that the Slate Roof House had within the block. Many tourists to Philadelphia, as well as natives of the city, do not realize what this park symbolizes. A final problem with the Welcome Park is that it is not advertised as an INHP site, with the result that many visitors to INHP are not aware of the site and the park is usually empty.

⁸⁴ Ibid.

Chapter 4

McCrea Houses, 108-110 Sansom Street



Sanborn 1984

In 1984, the McCrea houses, which were located in the center of the case study square block, at 108-110 Sansom Street, were “very intact middle class residences dating from the last decade of the eighteenth century.”⁸⁵ The houses were listed as a part of the Old City Historic District of the National Register of Historic Places. On February 6, 1975, they also had been locally designated, listed on the Philadelphia Register of Historic Places by the Philadelphia Historical Commission.⁸⁶ In addition, the houses were situated in an area of the city that was subject to the provisions of the “Redevelopment Proposal for Old City Unit #2 Redevelopment Area” (also known as the Redevelopment Plan):

The stated goal of the Redevelopment Plan is to preserve the historical character of the block by conserving valuable historic buildings, thereby promoting the educational, cultural, economic and general welfare of the City of Philadelphia. Accordingly, the Redevelopment Plan specifies forty-three historically certified structures, including the McCrea houses at 108-110 Sansom Street, which are to be protected from alteration or demolition by special controls imposed by the Redevelopment Plan.⁸⁷

⁸⁵ Friends of Independence National Historical Park, et al v. The Redevelopment Authority of The City of Philadelphia, et al. Court of Common Pleas, Philadelphia County, August Term, 1984. ID # 14136. See bibliography for complete name of the case.

⁸⁶ 108 - 110 Sansom Street File, Philadelphia Historical Commission Archives.

⁸⁷ Friends of the National Historic Park, et al v. the Redevelopment Authority, et al., August Term 1984. I.D. # 14136 Redevelopment Plan Clause VI (c) (1). It should be noted, that if the Redevelopment Plan was followed, it would have served as mitigation against the adverse effect that the Area F parking garage has on this case study square block. The Redevelopment Plan was originally intended to provide for the acquisition of any historically certified structure threatened with demolition.

The Redevelopment Plan was made pursuant to the Urban Redevelopment Law of Pennsylvania, 35 P.S. Section 1701 and adopted by the Redevelopment Authority in September 1975.⁸⁸

On February 6, 1981, Bookbinders, Inc. became the equitable owner of the McCrea houses under an installment sale with the legal owner, the Philadelphia Authority for Industrial Development (PAID). PAID is a government agency organized under the laws of the Commonwealth of Pennsylvania.⁸⁹ Administratively, PAID is located within a larger agency, the Philadelphia Industrial Development Corporation (PIDC). PIDC is a public/private partnership that serves the city as a nonprofit economic corporation that offers special loans to keep commercial business within the city.⁹⁰

Albert Taxin, then the owner of Bookbinders Restaurant entered into an agreement of sale, for the McCrea Houses, with PAID that had certain conditions:

1. That there be no further demolition of the historic structures which exist on the property;
2. That the plans for use of the properties be subject to the review of the Planning Commission staff; and
3. That the proposed parking use be limited to a duration of five years.⁹¹

The parking referred to was located at the south side of Walnut Street, between Front and Second Streets, opposite Bookbinders Restaurant. At the time of the installment sale, this was an empty lot that Bookbinders used for valet parking.

⁸⁸ Op cit, Statement of facts, I.

⁸⁹ FINHP, et al v. RDA, et al, Complaint in Equity, August Term, 1984.

⁹⁰ Walter D'Alessio and Ed Brown, "Economics of Real Estate," University of Pennsylvania City Planning 642 Lecture, September 21, 1998.

⁹¹ Memorandum from John C. Mitkus, Executive Director of the City Planning Commission to PHC, dated, December 22, 1981. 108 -110 Sansom Street File, Philadelphia Historical Commission Archives.

The original sales agreement between PAID and Bookbinders, Inc. dated February 6, 1981, stipulated that the sale was made with the belief that the “Buyer agrees to comply with all laws, ordinances and regulations affecting the premises.”⁹² The sales agreement also offered resolutions in the event that the buyer defaulted from the original sales agreement:

Section 25 - Events of Default by the Buyer - a (1): (failure to make payments when due) “or failure of Buyer to comply with any other obligations, covenants or conditions imposed upon it by this Agreement ...”

Section 26 - Seller’s remedies for Default - c: “Seller may terminate this Agreement and resell the Premises...”⁹³

Despite this original written agreement, on June 10, 1983, PAID and Bookbinders, Inc. entered into a second agreement to delete the clause in the initial agreement that protected the McCrea houses from demolition. This change in the original sales agreement was to settle a dispute regarding a federally funded hotel project within an area that had been officially designated as the “Washington Square East Urban Renewal Area” which included, within its boundaries, the vacant lot that Bookbinders had been using for parking..⁹⁴ PAID released Bookbinders from its obligations to restore the properties in

⁹² Agreement of Sale between PAID and Bookbinders, Inc. (Section 15), February 6, 1981.

⁹³ Ibid.

⁹⁴ Friends of the National Historic Park v. the Redevelopment Authority, August Term 1984. I.D. # 14136.5. The federal funds to be used on the hotel project were from the Urban Development Action Grant from the U.S. Department of Housing and Urban Development. The hotel that was constructed was the Sheraton directly across from Bookbinders. It should be noted that the Redevelopment Plan was originally intended to provide for the acquisition of any historically certified structure threatened with demolition.

order to “expedite the development of the A-4 parcel (the hotel).”⁹⁵

In August 1982, almost a year before the second agreement with PAID, Albert Taxin, then a Commissioner of the PHC appointed by Mayor Frank Rizzo, presented his request to demolish the McCrea houses to the PHC Architectural Committee.⁹⁶ Based on his request to demolish these two historical buildings, in order to create additional parking for his business, the Architectural Committee recommended that Taxin to accept the spaces that the Parking Authority offered him in the Area F garage. Mr. Taxin declined the Parking Authority’s offer, even though the lot that would result from razing the McCrea Houses would only provide parking for approximately six to ten cars.⁹⁷

On August 4, 1983, in response to Taxin’s demolition permit application, the Architectural Committee recommended a six-month delay in order that they and the rest of the PHC could explore alternatives to the demolition of these historic houses.⁹⁸ (Since the Philadelphia Historic Preservation Ordinance from 1955 was in effect at this time, the PHC had no power to stop demolition.⁹⁹) A six-month delay of demolition was the maximum the Commission could impose under the 1955 Ordinance. This delay was

⁹⁵ PHC Meeting Minutes, July 7, 1983. Records at the PHC Archives, 108-110 Sansom File, indicate that in 1981, the total sale price between PAID and Bookbinders, Inc. was \$200,000, of that only \$50,000 was stipulated to be used for repairs to the McCrea houses. These figures are also listed in the February 6, 1981, Agreement of Sale, between PAID and Bookbinders, Inc. In 1983, PAID began the plans for a hotel at the south side of Walnut Street between Front and Second Streets, where A. Taxin had been parking customers’ cars for Bookbinders. At this time PAID released Taxin from the no demolition provision in the agreement of sale for the McCrea houses and PAID also gave A. Taxin back \$150,000. It looks as if A. Taxin paid \$50,000 for the McCrea houses and \$150,000 for the empty lot.

⁹⁶ PHC Architectural Committee Meeting Minutes, July 7, 1983.

⁹⁷ PHC Architectural Committee Meeting Minutes, July 20, 1983.

⁹⁸ PHC Architectural Committee Meeting Minutes, August 4, 1983.

⁹⁹ Dr. Tyler, Interview with Meghan MacWilliams, March 19, 1999.

intended to enable the Commission and the public to look for alternative solutions for the houses.

Taxin granted the PHC fifteen months, instead of six, so that the Commission could find an adaptive reuse and a new location for the houses.¹⁰⁰ Many efforts were made to convince Mr. Taxin that preservation was the positive solution for these properties. For example, Bogue Wallin, Executive Director of the Preservation Fund of Pennsylvania wrote to Taxin about financial incentives available through preservation such as the donation of façade easement and federal tax benefits.¹⁰¹ Taxin was not interested. Proposed profitable reuses of the property as offices and apartments were also presented to Mr. Taxin.¹⁰² Despite the PHC's efforts, Taxin remained clear that he was not interested in the buildings, only the land on which they sat, so adaptive reuse of the properties was not worthwhile to him. Taxin offered to donate the McCrea houses to the city as long as they would move them, but the Architectural Committee ruled that the setting of these buildings was as important as the architecture.¹⁰³ It was during this PHC Architectural Committee Meeting on August 4, 1983 Mr. Albert Taxin resigned from the Commission because of the issue of the McCrea houses and "any embarrassment he may have caused."¹⁰⁴

¹⁰⁰ PHC, "McCrea Houses Chronology," PHC Archives, 108-110 Sansom Street File. During this fifteen month period, the PHC also had the building documented.

¹⁰¹ Bogue Wallin, Executive Director of Preservation Fund of Pennsylvania, Letter to Albert Taxin, owner of Bookbinders, Inc., March 19, 1984.

¹⁰² PHC Archives, 108-110 Sansom Street.

¹⁰³ PHC Architectural Committee Meeting Minutes, August 4, 1983.

¹⁰⁴ Ibid.

On April 30, 1984, Taxin sent a copy of a letter from his insurance broker to Otto Haas, the Director of Licenses and Inspection, and Dr. Richard Tyler, the Philadelphia Historic Preservation Officer, stating that the insurance company could no longer insure the houses "owing to recent damage to three cars from falling stucco"¹⁰⁵ Since the PHC had already utilized the greatest power that the 1955 Preservation Ordinance offered, the six month demolition delay, the PHC had nothing else it could do to stop Taxin. On July 10, 1984, Dr. Richard Tyler had no choice but to sign the demolition permit for the McCrea houses.¹⁰⁶

In response to Tyler's signing of the demolition application and in realization that the PHC had no more power to fight the demolition, private agencies throughout the city organized themselves to take over this fight to save the McCrea houses. The private agencies - FINHP, Tayoun Brothers Incorporated, Paul H. Russel, The Preservation Coalition of Greater Philadelphia, Old City Civic Association (OCCA), the Philadelphia Society for the Preservation of Landmarks, Philadelphia Chapter of the Society of Architectural Historians, the Victorian Society of America, and the Coalition of River Front Communities - took the case of the McCrea houses to the Court of Common Pleas in Philadelphia. They sued the RDA, PAID, James Stanley White, Commissioner of L. &

¹⁰⁵ PHC, "McCrea Houses Chronology," PHC Archives, 108-110 Sansom Street File. One of the provisions of the Redevelopment Plan of this area was that the properties within the area were to be maintained. Taxin wasn't keeping up with maintenance. It would be impossible for the PHC to force Taxin to maintain buildings that he is trying to demolish.

¹⁰⁶ "108 - 110 Sansom Street" File, Philadelphia Historical Commission Archives.

I, Robert Hawthorne, Inc., Bookbinders Restaurant, Inc. and the City of Philadelphia, over this amendment of the initial agreement terms in the sale of the McCrea houses.¹⁰⁷

The Friends of Independence National Historic Park (FINHP) sought to enjoin demolition of McCrea houses, on the basis that demolition of these historically certified structures was unlawful in the following respects:

- First, the Redevelopment Plan specifically provided that the structures were to be preserved and maintained and hence any demolition was wholly unauthorized unless the Plan was modified or amended by act of City Council.
- Second, PAID, RDA, and the City acted in excess of their authority in taking actions that removed the protections in the Installment Sales Agreement thus denying implementation of the Redevelopment Plan which required preservation of the McCrea Houses.
- Third, the administrative review procedures for 'alterations or demolition' of historically certified structures are not applicable to a case in which the owner lacked the substantive right to demolish the buildings and, even if applicable, were not followed.
- Fourth, because the protections against demolition of the McCrea Houses were removed in order to facilitate a federal undertaking, i.e., the Hotel Project, the Advisory Council was required to conduct a review under Section 106 of the National Historic Preservation Act, 16 U.S.C. SS 470f, and the City and the RDA violated the law in failing to refer the issue to the Advisory Council."¹⁰⁸

The plaintiffs requested that the court enjoin the defendants from demolishing the 108 and 110 Sansom Street buildings. The plaintiffs also requested the court to:

¹⁰⁷ Friends of Independence National Historical Park v. The Redevelopment Authority, Court of Common Pleas, Philadelphia County, August Term, 1984, I.D. #14136.

¹⁰⁸ Friends of the National Historic Park (FINHP), et al v. the Redevelopment Authority (RDA), et al., August Term 1984, I.D. # 14136, Memorandum of law In Support of Motion for Preliminary Injunction, p.6.

Order defendants PAID and Bookbinders to maintain and preserve the structures as required by the Redevelopment Plan. Or, alternatively, order the Redevelopment Authority to acquire the McCrea Houses by condemnation so that they may be sold to a developer who will preserve and maintain them as acquired by the Redevelopment Plan. Order defendants Redevelopment Authority and Commissioner of the Department of Licenses and Inspection to comply with the requirements of the Redevelopment Plan for review of an application for a demolition permit; Rescind the Installment Sales Agreement between PAID and Bookbinders for sale of the McCrea Houses, since such sale would permit their demolition in violation of the Plan. (The court should) require restoration of all or any portion of the historically certified structures in the event they are removed or disassembled by defendants.”¹⁰⁹

The plaintiffs further argued that:

The defendant Bookbinders bought these properties in 1981 with the knowledge that they were ‘historically certified structures’ required to be maintained and preserved by the Redevelopment Plan, which was adopted and approved by ordinance of City Council in October 1976. Under the Plan the requirement of preservation is a mandatory requirement. The obligation to preserve was assumed by Bookbinders when it acquired the properties and has never been waived, released or extinguished by an entity with authority to do so.”¹¹⁰

¹⁰⁹ FINHP, et al v. RDA, et al., August Term 1984, I.D. # 14136, Complaint in Equity, pp. 11-12. These arguments were based on the original sales agreement, between PAID and Bookbinders, Inc., February 6, 1981.

¹¹⁰ FINHP, et al v. RDA, et al., August Term 1984, I.D. # 14136, Motion for Preliminary Injunction., p. 3. The PHC did make this argument in attempts to protect the McCrea houses. The PHC utilized its strongest tool at the time, the six-month demolition delay. It should also be noted that in this case it was established that L. and I. deemed the buildings to be safe. As established by the Redevelopment Plan, the preservation of the McCrea Houses was important to mitigate the effects of the Area F parking garage on the Old City National register Historic district (see footnote 79). In Figarsky v. Norwich Historic district Commission, 368 A.2d 163 (Conn. 1976), the Connecticut court recognized the importance of a historic building to serve as a “screening element between these evidences of low-grade commercialism and the attractiveness of the largely unspoiled green.” In the case of the McCrea Houses, they served as a screening element between the Area F parking garage and the Old City National Historic District.

If the Philadelphia Historic Preservation Ordinance had been stronger at the time, the PHC could have made the same argument that although Taxin did suffer a loss of parking, the buildings could still be used for reasonable purposes.¹¹¹ The buildings were stated to be structurally sound and, according to Penelope H. Batcheler, “the lay out of the houses is spacious and amenable to a variety of functions.”¹¹² Some examples of new uses for the building were an office building or restaurant with apartments on the upper levels. According to the study:

The McCrea Houses certainly are restorable. At \$100/sq. foot, the present rule of thumb figure for a museum-quality restoration, the expense would probably be less than \$500,000. An adaptive re-use would cost considerably less: Richard Tyler of the Historical Commission estimates \$200,000 (for the total restoration). Tax incentives and a facade easement donation would substantially offset these expenses, especially so for Bookbinder’s because of the extensive street frontage of their properties.¹¹³

As far as Taxin’s argument for parking concerns, he was offered parking in the Area F garage. In addition, Rouse and Associates, the developers of the new hotel site across from Bookbinders, offered to enlarge their parking lot to allow space for parking for Bookbinders. John Higgins of the Philadelphia Parking Authority also stated that he would help work out a parking and traffic flow plan to accommodate A. Taxin’s concerns.¹¹⁴

¹¹¹ The PHC had funded studies of adaptive reuse of the property that found profitable ways to adapt the site as apartments or offices. This view of taking could have been seen as very similar to that of the decision of the Penn Central Case. Taxin did not suffer a taking because he still maintained a reasonable use of his property.

¹¹² PHC Archives, “The James McCrea Houses, 108-110 Sansom Street,” Feasibility Study for Adaptive reuse, White Paper, no date, 2.

¹¹³ *Ibid.*, 2.

¹¹⁴ *Ibid.*

On August 31, 1984, the Court decided to issue the plaintiffs a preliminary injunction to stop the demolition of the McCrea Houses, but only if the plaintiffs could raise \$200,000 for an injunction bond by September 27, 1984.¹¹⁵ Unfortunately the plaintiffs were unable to raise the bond money by the deadline and the demolition of the McCrea Houses began at 1:30 P.M., September 27, 1984.¹¹⁶

The loss of the McCrea houses was a key event that demonstrated to the City and the public an obvious weakness of the Philadelphia Historic Preservation Ordinance in fighting demolition. In the aftermath, the preservation community working with the Philadelphia Historical Commission was able to convince the City Council to strengthen the ordinance. A new Historic Preservation Ordinance was signed by Mayor Goode, December 21, 1984 and was put into effect in April 1985. This new, substantially stronger Ordinance has made acquiring a demolition permit for a historic building significantly harder; only in cases where a demolition is “necessary in the public interest, or the Commission finds that the building, structure, site or object cannot be used for any purpose which it may be reasonably adapted” will a permit be granted.¹¹⁷ This new Ordinance did not amend the 1955 Ordinance; it totally replaced it.

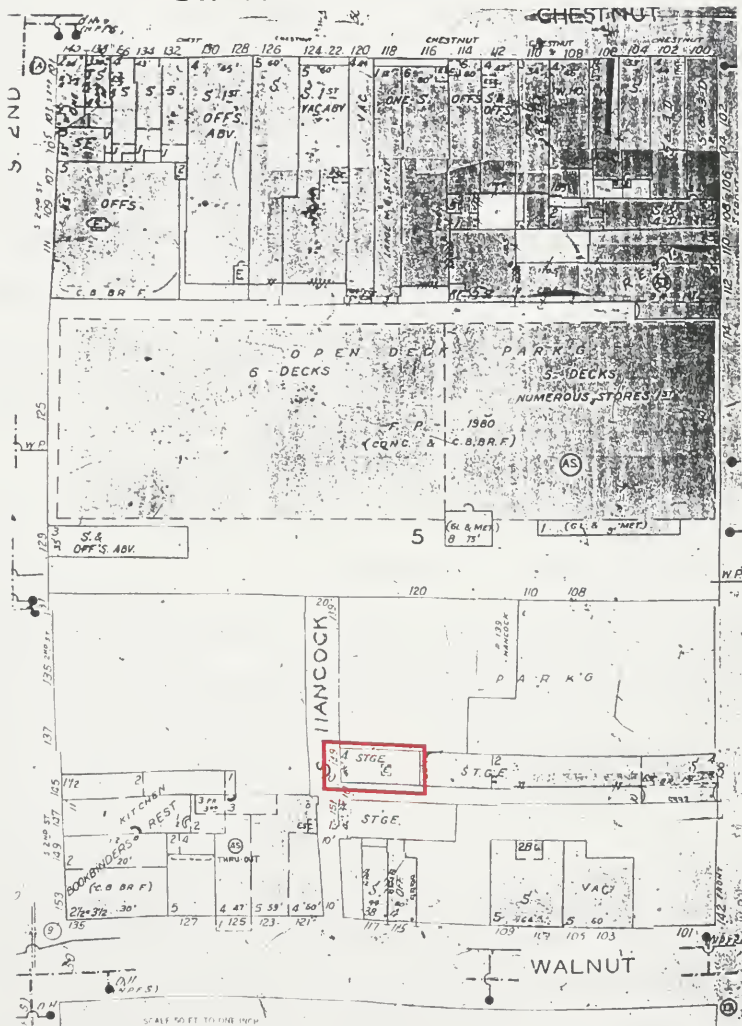
¹¹⁵ FINHP, et al. v. RDA, et al. August Term 1984. I.D. # 14136, Motion for Preliminary Injunction.

¹¹⁶ Kit Konolige. “Down in History - an Eighteenth Century House Falls,” Philadelphia Daily News, 9/28/84. 8. Konolige pointed out that if the preservationists halted the demolition of the McCrea Houses, A. Taxin, could have sued for revenue lost from the parking spaces. It could be hypothesized that the Courts didn’t want to see that happen which is why the plaintiffs were offered the opportunity to earn an injunction and the trial was not found fully in their favor. Public comments on the event offer a feeling of the atmosphere on the side of those who shared the argument of the defendant: “It is a pity that no foundation came forth with the money to save these original houses, when millions were spent on the reconstruction of the City Tavern and the Welcome Park, and the proposed Disney-by-the-Delaware. Philadelphians awake! Don’t let your heritage be further destroyed by those only interested in commerce.” James Francis Marion. “To the Editor,” Philadelphia Inquirer, October 8, 1984, 12-A.

¹¹⁷ Philadelphia Code, 14-2007 (7)(j). Bill 318. Chapter 2 goes into detail about the difference between the Historic Preservation Ordinance from 1955 and the 1985 Ordinance.

Chapter 5

149 South Hancock Street



Sanborn 1988

In May, 1985, nine months after the demolition of the McCrea houses and in the same year that Philadelphia's new Historic Preservation Ordinance went into effect, the Taxin Family purchased the property located behind their restaurant at 149 South Hancock Street for \$186,686. Like the McCrea houses, the Taxins knew that this property was part of the Old City National Register Historic District, and had been locally designated as a historic structure on the Philadelphia Register of Historic Places as of February 6, 1975.¹¹⁸ Also like the McCrea houses, and the rest of the square block, 149 South Hancock Street was part of the Redevelopment Proposal for Old City Unit #2 Redevelopment Area.¹¹⁹

Despite the plans to protect the area from demolition, in July of 1986, just one year after purchasing the property, the Taxins approached Dr. Richard Tyler for permission to demolish 149 South Hancock St. They argued that the cost of renovating the nineteenth century building was prohibitive.¹²⁰ According to John Taxin, the building is "not accessible for commercial use since it is directly adjacent to a garbage disposal unit."¹²¹ John Taxin argued that the building was not a "period classic" but a "text book case of a rundown aged building in desperate need of urban renewal demolition."¹²² John

¹¹⁸ PHC Archives, 149 South Hancock Street File.

¹¹⁹ Urban Redevelopment Law of Pennsylvania, 35 P.S. Section 1701 and adopted by the Redevelopment Authority in September 1975. The provisions and restriction in the Redevelopment Plan are discussed in the Chapter IV.

¹²⁰ Roger Cohen, "Taxin is Opposed in Bid to Demolish Historic Building," Philadelphia Inquirer, March 24, 1987, B3.

¹²¹ John M. Taxin, Chairman of the Board of Bookbinders, Inc. Letter to Dr. Richard Tyler, Philadelphia Historical Commission, July 18, 1986.

¹²² Ibid. J. Taxin's argument that the building was not a "period classic", and therefore should be not have to be spared from demolition, is without merit. The building had been established as significant, through its listing on the National Register of Historic Places, as well as the Philadelphia Register of Historic Places. The building is significant because its architectural style was typical of that found in Old City and therefore was important to preserve for contextual reasons. The term "urban renewal demolition" is the

Taxin also brought to Tyler's attention that Bookbinder's insurance company had canceled their liability, fire, vandalism and malicious mischief policy for this building.¹²³ In John

Taxin's words:

The building is abandoned, its walls cracking and bulging, its interior completely in disrepair, any potential use in its present state of dilapidation is highly questionable. The 'street' people make a home in and out of the building breaking locks to enter and in danger of getting hurt. A serious thunderstorm or gale could potentially bring the building to rubble, according to our experts.¹²⁴

The Taxins claimed to want to demolish the building in order to provide twelve additional parking spaces for Bookbinders Restaurant.¹²⁵ As stated by Albert Taxin,

first recorded reference of the Taxins' ulterior motive to their reasoning of needing so much parking for their restaurant. The PHC had reason to believe that the Taxins had an ulterior motive because of the two offers they had declined from the surrounding garages. In order to stop what the PHC thought was a land banking scheme, they could only fight each demolition permit request, one at a time. The Redevelopment Plan already put restrictions on the area to stop any demolition.

Dr. Tyler, Interview with Meghan MacWilliams, March 19, 1999.

¹²³ John M. Taxin, Chairman of the Board of Bookbinders, Inc. Letter to Dr. Richard Tyler, Philadelphia Historical Commission, July 18, 1986. John M. Taxin is the son of Albert Taxin, the President of Bookbinder

¹²⁴ Ibid. J. Taxin did not state who the experts who made this analysis were. In an interview with Richard Thom, vice-president of Old City Civic Association. (OCCA), Thom expressed the opinion that in some cases, the owners that want to demolish their historic buildings leave the buildings open to the environment. With the buildings open, what the weather won't destroy could be destroyed by the homeless. The homeless come in for shelter and in the winter months start fires for heat. Thom explained that between the effects of weathering on an open building and the homeless setting fires, L. and I. will eventually come to the owner of the neglected building and order him to "repair or demolish" their property because it has become an issue of public safety. The owner will of course pick demolition because that was their ultimate goal. In cases like this one, the owner is rewarded for his/her neglect of the building. Demolition by neglect is prohibited in the 1985 Preservation Ordinance. Richard Thom, vice-president Old City Civic Association, Interview with Meghan MacWilliams, March 12, 1999.

¹²⁵ Cohen, B3. Recall the demolition of the McCrea houses provided only six to ten additional parking spaces. In the interview with Dick Tyler, he stated that the Area F parking garage is a half a block away from Bookbinders Restaurant. This parking garage is in Tyler's opinion underutilized because of the change in ramp location on 195. Dr. Tyler, Interview with Meghan MacWilliams, March 12, 1999.

president of Bookbinders, Inc. in a letter to Dr. Richard Tyler, Historic Preservation Officer of the PHC :

Richard, we are desperately in need of parking facilities and although the demolition of the property would not eliminate our problem, it would indeed be helpful. We really have no other alternative but to tear down this building as no one seems interested in it. The building as it stands is uninsurable and if someone happens to break into it, I can assure you that their life would be in danger as some of the bricks have already begun to fall from it.¹²⁶

It should be noted that in spite of Albert Taxin's concerns about the building's structural stability, Nick Gianopulos, a structural engineer with Keast and Hood Company, assessed the building and concluded that the building was structurally sound.¹²⁷

Philadelphia's 1985 Historic Preservation Ordinance stated that no permit could be issued for the demolition of a locally designated historic building, "unless the Commission finds that issuance of the permit is necessary in the public interest."¹²⁸ To establish that the demolition of 149 South Hancock Street was necessary to the public interest, the Taxins had to demonstrate that "the sale of the property was impracticable, that commercial rental cannot provide a reasonable rate of return and that other potential uses of the property were foreclosed."¹²⁹

¹²⁶ Albert Taxin, president of Bookbinders, inc. Letter to Richard Tyler, Historic Preservation Officer for the City of Philadelphia, July 28, 1986. With A. Taxin's plea, it seems obvious that the only reason that the Taxins purchased the property was to demolish it.

¹²⁷ Nicholas L. Gianopulos, Keast and Hood Co. Structural Engineers, "149 South Hancock Street, Structural Assessment," December 15, 1986. Mr. Gianopulos also determined that the needed repair costs to the building were approximately \$85,000 or an average of \$15.00 per square foot. The building is 22 feet by 52 feet.

¹²⁸ Philadelphia Code, 14-2007 (7)(j). Bill 318, APP. NO. 566-15.

¹²⁹ Ibid.

In order to meet these financial hardship requirements of the 1985 Preservation Ordinance, a financial assessment of the property's adaptive reuse potential was done on behalf of the Taxins by Growth Properties, a real estate consulting company. In the analysis by Growth Properties, it was estimated that the construction and finish costs for 4750 square feet of office/retail would be approximately "\$422,688 total, or \$88.99 a square foot, and for apartment/retail \$461,503 or \$97.16 per square foot."¹³⁰ The estimated value of the property after rehabilitated was estimated to be, "\$428,750 for the office/retail reuse and \$542,978 for the apartment/retail reuse, with development costs of \$768,142 and \$808,007 respectively."¹³¹

The Old City Civic Association (OCCA) considering these to be high estimates, requested that Jackson-Cross Company, a real estate consulting company, be hired by the Philadelphia Historical Commission to reevaluate the value of adaptively reusing the property. The Jackson-Cross Company's estimates were considerably lower because their estimates acknowledged the Investment Tax Credit and the depreciation value of the property as \$150,000.¹³² "Construction and finish costs of \$204,600 for 3410 square feet of office/retail use, or \$60.00 per square foot. Total development costs of \$459,930 with

¹³⁰ Dr. Richard Tyler, Historic Preservation Officer for Philadelphia, Memorandum to the PHC regarding 149 South Hancock Street, March 16, 1987, 1. PHC Archives, 149 South Hancock Street File. Although the square foot costs may seem high, they were with the current range of prices for accepted construction costs.

¹³¹ Ibid. Growth Properties also estimated that as an office 149 South Hancock Street would yield an internal rate of return of -1.8%, the apartments -8.0%.

¹³² Ibid., 2. The depreciation cost of \$150,000 is based on the neglect of the building. The actual original purchase price was \$186,686. PHC Archives, 149 South Hancock Street File.

the sale of the property in 1997 for \$522,627 net. The project internal rate of return in this analysis is 9.89%.”¹³³

According to Jackson-Cross and other real estate consultants questioned by the PHC staff, “an internal rate of return below 12% cannot attract even a conservative, institutional investor seeking a high quality building in a prime location.”¹³⁴ Based on the studies done on behalf of Taxin, the PHC and OCCA, 149 South Hancock Street lacked economic viability.¹³⁵

Many argued at the time that this lack of economic viability was a self-imposed financial hardship stemming from the inflated price that the Taxins paid for this property. The OCCA vocally opposed the demolition proposal and argued that with such an inflated purchase price, it was unlikely that any of the historic preservation financial incentives would make the building economically viable.¹³⁶

The OCCA also argued that the building was historically certified at the time that Taxin paid for it and that therefore he should have taken renovation costs into account and not paid so much money for it.¹³⁷ William Kingsley, President of the Old City Civic Association at the time, stated that it was wrong if property owners are allowed to demolish unrestored historic buildings because they paid an excessive price for them. In

¹³³ Ibid. Although those figures may seem aggressively low, the construction and finish costs are within the current range of accepted construction costs

¹³⁴ Ibid.

¹³⁵ Ibid.

¹³⁶ Thomas Hine, “The Fight to Preserve vs. the Right to Tear Down,” Philadelphia Inquirer, March 29, 1987, 14-I. The OCCA argued that the inflated price that Taxin paid reflected the price-based value of the property as part of a development parcel without the building on it not the fair-market value of a property with preservation restrictions on it.

¹³⁷ Cohen, B3.

Kingsley's own words, if such activity were to be tolerated by the PHC, "Then the whole preservation ordinance would be a joke."¹³⁸

Thomas Hine, *Inquirer* architecture critic, compared the Hancock situation to that of Penn Central Case in New York City in 1976:

The US Supreme Court found that as long as a property is getting a reasonable financial return from the property, there is no hardship, even if the owner could make far more money if the historic requirements were waived. This decision, which declared that historic preservation is a legitimate regulatory power of government, has provided the cornerstone of the historic preservation movement.¹³⁹

The problem is that the rate of return is certainly influenced by the amount of money paid for the property. The Taxins paid an exorbitant price, which resulted in a self-imposed economic hardship. This self-imposed economic hardship addressed an issue that the 1985 Preservation Ordinance did not foresee. If the PHC had allowed the demolition, it would be saying to developers that they could purchase and demolish historically certified buildings if they pay the price-based value of the property as part of a development parcel, without the building on it, and then claim economic hardship. This, in turn, would make the protection of properties with an historic status meaningless.

Taxin indeed admitted to the Commission that he purposely overpaid for the property as a defensive move.¹⁴⁰ The property is located between Bookbinders' Restaurant and a surface parking lot that the restaurant owns. "Taxin said that he saw a

¹³⁸ William Kingsley, President of the Old City Civic Association, quoted in Cohen, B3.

¹³⁹ Hine, "Cases Challenge City Ordinance on Preservation," May 25, 1987. The court's decision in this case said that government may deny an owner a high rate of return on investment that may result in demolition of a historic property if there can be any reasonable rate of return through its reuse.

¹⁴⁰ *Ibid.*

value in holding the property to protect the restaurant's flexibility and the possibility of a larger development on the land he owns."¹⁴¹

Research concerning the historic significance of the property was being done at this time, not only as a way to document the building, which could possibly be lost, but also as an effort to stir interest in saving the building. "According to a deed search, conducted by George Thomas of the Clio Group, 149 South Hancock Street was built and lived in by a cabinet maker named Michael Bouvier."¹⁴² Bouvier came to America in 1815 with Napoleon Bonaparte's brother Joseph. Bouvier is believed to have been the designer of the furniture for the Bonaparte's residence in Bordentown, New Jersey.¹⁴³ Historic deeds indicate that Bouvier lived at 149 South Hancock Street as early as 1824. Michael Bouvier was also the great-great grandfather of Jacqueline Bouvier Kennedy Onassis. Sometime after Bouvier left Hancock Street, the site was used to manufacture wool.¹⁴⁴

On June 24, 1987, the PHC denied the Taxins a demolition permit.¹⁴⁵ This denial was based on the site's existence in the "urban renewal area" of the Redevelopment Plan and Taxin's self-imposed hardship. As part of the Redevelopment Plan, "the Redevelopment Authority (RDA) can acquire the property by condemnation so that it may

¹⁴¹ Ibid. As Rich Thom, Vice-president of OCCA, explains, "Nothing is more valuable in a historic district than vacant land." Rich Thom, Interview with Meghan MacWilliams, March 12, 1999.

¹⁴² Cynthia Burton, "Historic Deed? Fated Factory Linked to Jackie O's Kin," Daily News, December 23, 1987. PHC Archives, Xerox of article in 149 South Front Street File, no page number of article noted.

¹⁴³ Burton, "Historic Deed? Fated Factory Linked to Jackie O's Kin." It is also believed that Bouvier made furniture for Stephen Girard. This furniture is possibly that which is now on display as the Girard collection at Girard College.

¹⁴⁴ Debra Diamond, "History Fights Back," South Street Star, December 24, 1987, 1.

¹⁴⁵ PHC Meeting Minutes, June 24, 1987.

be sold to a developer who will preserve and maintain it as acquired by the Redevelopment Plan.”¹⁴⁶

Although RDA would not have a problem with acquiring the property at 149 South Hancock Street, their own market research analysis indicated that the building would not turn a profit for a developer.¹⁴⁷

Based on the RDA’s findings that the property would not turn a profit, the PHC reversed its decision to deny the Taxin’s their demolition permit on December 2, 1987. The OCCA and the Preservation Alliance appealed to the L. and I. Board of Review, protesting the granting of a demolition permit.¹⁴⁸ The listed grounds for appeal:

- A. That the Commission acted in disregard of the legal standard.
Specific requirements of the ordinance were disregarded:
 - 1. The owner has not demonstrated “that the sale of the property is impracticable”. (14-2007 section 7 (j))
 - 2. The owner has not demonstrated “that the commercial rental cannot provide a reasonable rate of return.” (Section 7 (j))
 - 3. The owner has not demonstrated that other potential uses of the property are foreclosed”. (Section 7 (j))
 - 4. The applicant did not “submit to the Commission the plans and specifications of the proposed work, including plans and specifications for any construction proposed after demolition.” (Section 7 (e))
 - 5. The owner did not submit by affidavit “all listings of the property for sale or rent, price asked, or offers received, if any” as of the time of the decision. (section 7 (f)).
 - 6. The Commission acted contrary to all guidelines specified by the ordinance for making such a determination in (Section 7 (k))

¹⁴⁶ FINHP, et al v. RDA, et al., August Term 1984. I.D. # 14136. Complaint in Equity, pp. 11-12. These arguments were based on the original sales agreement, between PAID and Bookbinders, Inc., February 6, 1981.

¹⁴⁷ Burton, “Historic Deed? Fated Factory Linked to Jackie O’s Kin.”

¹⁴⁸ Diamond, I.

7 The Commission failed to require Licenses and Inspections to post “notice indicating that the owner has applied for a permit to demolish the property ; that the property is historic ...; [and] that the application has been forwarded to the Commission for review”. (Section 7(B))

8. The Commission acted entirely contrary to the stated Public Policy and Purposes of this ordinance. (Section 1 (a)) and 1(b))¹⁴⁹

On December 22, 1987, the PHC reversed its decision of December 2, 1987, thereby once again denying Taxin the demolition permit. The property was saved from demolition and the property’s ownership was transferred to RDA.¹⁵⁰ RDA still owns the property today. No use has yet been found for 149 South Hancock Street, but offers have been made by RDA to the shareholders of the Thomas Bond Bed and Breakfast to restore the property as a bed and breakfast that could serve as an annex of the Thomas Bond House.¹⁵¹

Much of the historical context of 149 South Hancock Street has been lost, so the building’s value to the district has diminished significantly. In the future, the issue of demolition of this site will most likely be raised again. If the new owner, RDA, a public

¹⁴⁹ Old City Civic Association and Preservation Alliance of Greater Philadelphia, Appeal to the Board of Licenses and Inspection Review, December 9, 1987, Appeal number 24835. The sections noted by each appeal is a reference to the Philadelphia Preservation Ordinance.

¹⁵⁰ PHC Meeting Minutes, December 22, 1987. Based on the Redevelopment Plan, RDA also should have acquired the McCrea houses when A. Taxin applied for a demolition permit. Unfortunately, the RDA was one of the agencies involved in the construction of the Society Hill Sheraton. Therefore, RDA was also part of the deal with Taxin to allow him to demolish the McCrea houses for parking in order to compensate him for his lost parking with the construction of the new Sheraton. The goal behind that deal was to expedite the Society Hill Sheraton project.

¹⁵¹ Michael Guinn, Assistant Innkeeper at Thomas Bond Bed and Breakfast, Interview with Meghan MacWilliams, March 6, 1999

federally funded agency, decides that it would be in the public's best interest to demolish the building, then, in compliance with the National Historic Preservation Act of 1966, a Section 106 Review will have to be done.¹⁵² A Section 106 Review will enable the Philadelphia Historical Commission, as well as the Pennsylvania State Historic Preservation Office, and the Advisory Council of Historic Preservation, an opportunity to comment on the effects that any project at 149 South Hancock Street will have on the Old City National Register Historic District. Since the property is located within a registered Historic District, the project application may be taken to the level of the Historic Sites Council of Pennsylvania for review.¹⁵³

With the issues at 149 South Hancock Street building, it was evident that self-imposed financial hardships were a loophole in the PHC's 1985 Ordinance.¹⁵⁴ Although this building was saved, or at least its demolition averted, the PHC recognized the possible future problems of self-imposed hardship loophole.

The 1985 Ordinance allowed the PHC to deny an applicant a demolition permit if the applicant failed to prove that a building could not be reasonably adapted due to financial hardship.¹⁵⁵ This proof is based on a reasonable rate of return from the property,

¹⁵² Jeff Barr, Historic Preservation Planner, PHC, Interview with Meghan MacWilliams, March 19, 1999. RDA receives the majority of its funding from Community Development Block Grants which are administered by the United States Department of Housing and Urban Development

¹⁵³ Code of Federal Regulations, 36 CFR 800, Federal Register, 2 September 1986, (51 FR 31115-31125).

¹⁵⁴ In the case Weinberg v. The City of Pittsburgh 676 A.2d 207 (Pa. 1996) The Pennsylvania Supreme Court denied the Weinbergs their request for a demolition permit for their historic property based on economic hardship. The court based their decision on the fact that the Weinbergs were fully aware of the historic designation and restriction on the property when they purchased it (much like Taxin); therefore they could only follow the restriction and restore the property or sell it to someone who will. It should be noted that Pittsburgh, like Philadelphia is also governed by a Home Rule Charter.

¹⁵⁵ Philadelphia Code, 14-2007 (7)(j). Bill 318.

which is, as previously stated, is influenced by the amount of money paid for the property. In order to prevent this policy from being utilized to the PHC's disadvantage, the PHC has created the Financial Hardship Committee. The Financial Hardship Committee is one of the three technical advisory committees that serves the Commission.¹⁵⁶ "The members of this Committee should include the Chair of the Commission, the Developer member of the Commission, the Chair of the City Planning Commission or his/her designee, the Director of the Office of Housing and Community Development or his/her designee, the Architectural Historian and the Architect."¹⁵⁷ Based on the PHC "Rules and Regulations" which were adopted in August 8, 1990 and were amended December 4, 1997, the Financial Hardship Committee requires additional information to be reviewed than the information that was requested as proof of financial hardship under the 1985 Ordinance.¹⁵⁸ Information that the Financial Hardship Committee must see includes, but is not limited to:

- Rehabilitation cost estimates for the identified reasonable uses or reuses, including the basis for the cost estimates;
- Ten-year pro forma of projected revenues for the reasonable uses or reuses that takes into consideration the utilization of tax incentives and other programs;
- Estimates of the current value of the property based upon a ten-year projection of income and expenses and the sale of the property at the end of that period;"
- Estimates of the required equity investment including a calculation of the Internal Rate of Return based on the

¹⁵⁶ PHC "Rules and Regulations" which were adopted in August 8, 1990 and were amended December 4, 1997, 44-48.

¹⁵⁷ PHC, Rules and Regulations, 1997, 6.

¹⁵⁸ Ibid.

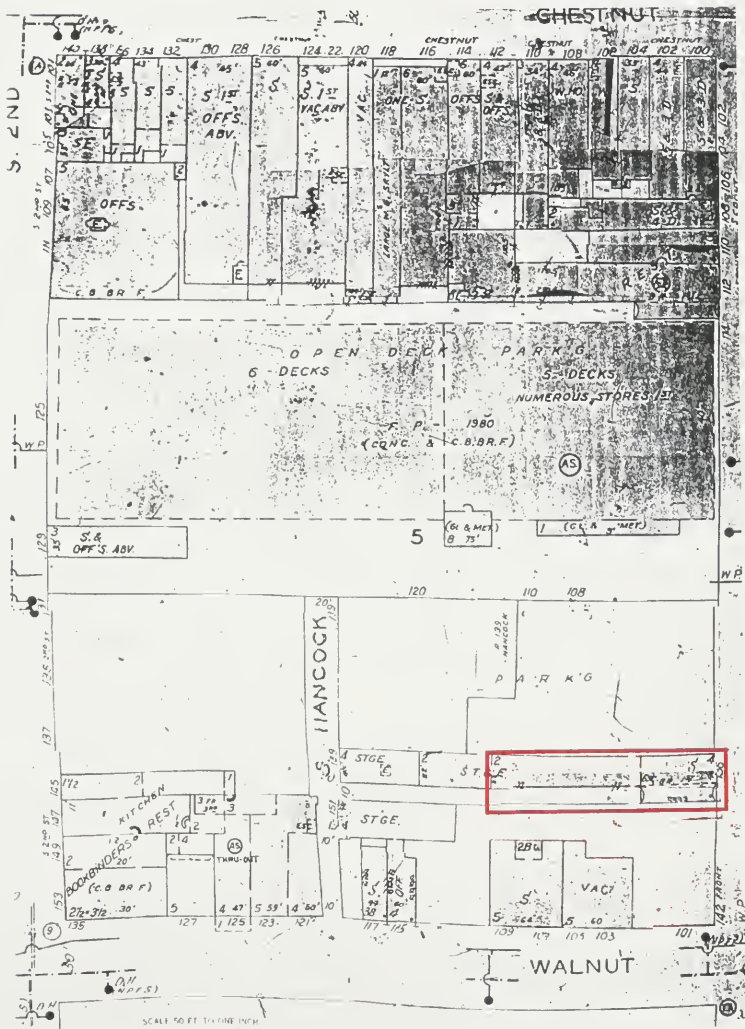
actual cash equity required to be invested by the
owner.¹⁵⁹

This additional information provides a more stable basis for the cause of financial hardship, in order for the Committee to make its case in the instances of self-imposed hardships. The tightening of the PHC's procedures associated with applications for demolition based on claims of financial hardship, and the review of such applications, is in many ways a direct outgrowth of the events associated with 149 South Hancock Street.

¹⁵⁹ Ibid. 40.

Chapter 6

Elisha Webb Chandlery, 136 South Front Street



Sanborn 1988

The Elisha Webb Chandlery was located at 136 South Front Street at the corner at Front and Walnut Streets. It was included in the Old City National Register Historic District and on May 26, 1970, it was locally designated to the Philadelphia Register of Historic Places.¹⁶⁰ The Elisha Webb Chandlery was an extremely rare building constructed in two different phases. The actual chandlery was a four story utilitarian Classical Revival commercial loft building built c. 1835. This building had a rare feature of the bridging over of a cobblestone alley by the upper floors. This alley led to a two-story warehouse of the late 18th or early 19th-century, which stood with its exterior integrity intact. The survival of this early maritime warehouse in present day Philadelphia would have been without parallel. Historically, this building was the City's last architectural link with one of the great seaports of the 18th-century, trans-Atlantic world.¹⁶¹ This structure was one of the only buildings on the west side of Front Street that was saved in 1965, under Mayor Tate's administration, when a deep sewer construction project took place along Front Street, adjacent to this property.¹⁶²

On May 5, 1988, just five months after the Taxins were denied demolition of 149 South Hancock Street for the second time, the Elisha Webb Chandlery was sold at public

¹⁶⁰ 136 South Front Street File, PHC Archives.

¹⁶¹ Old Original Bookbinders v. City of Philadelphia, Philadelphia Historical Commission, Board of Licenses and Inspection Review, Appeal No. 26225. The City of Philadelphia's Proposed Findings of Facts and Conclusions of Law, February 4, 1991. The Elisha Webb Chandlery was described as, "Our last tangible connection with the economic and social forces that powered Philadelphia's growth."

¹⁶² M. Richard Cohen, "Redevelopment Study of 136 South Front Street" prepared for the Philadelphia Historical Commission, February 1, 1990. It was under Mayor Tate's administration that Elisha Webb was underpinned during these sewer excavations. It was also under Mayor Tate's administration that the Redevelopment Plan to protect this area was adopted.

auction. At the auction, a letter from Dr. Tyler was read aloud which explained that the building was historically designated and that bids should take into account the restrictions on the property.¹⁶³ With this stipulation of rehabilitation, the property should have been purchased at fair market value, subject to historic preservation and development restrictions. This in itself was a new procedure that had resulted from the Hancock Street self-imposed financial hardship concern. Instead, John Taxin, owner of Bookbinders bought the property, not at its fair market value with historic preservation restrictions, but at a higher purchase price reflecting the property's land development value. As in the case at 149 South Hancock Street, it was thus easier for the Taxins to claim financial hardship when trying to restore the property, because so much money was spent on the purchase of the property itself.¹⁶⁴ Many of the members of the Commission felt that the Taxins purposely created another self-imposed hardship in order to be granted a demolition permit. Some members, such as Dr. David Brownlee, interpreted this high price to mean that many people were at the auction bidding on the property; therefore, not only did the Taxins pay a legitimate price but, many buyers were interested in the property. One of the provisions of the 1985 Preservation Ordinance is that when an owner of a locally designated historical building wants to demolish the property due to economic hardship:

The owner must demonstrate that the sale of the property is impracticable, that commercial rental cannot provide a

¹⁶³ PHC Meeting Minutes, August 31, 1989. The PHC was not able to take an active part in the auction. Dr. Tyler could only inform the bidders that the building was locally designated and that restrictions were applied to the building. Dr. Tyler, Interview with Meghan MacWilliams, March 19, 1999.

¹⁶⁴ 136 South Front Street File, PHC Archives. By paying the price based on fair market value without taking the restrictions imposed by the Historic Preservation Ordinance into account, Taxin established a "self-created" hardship. This type of economic hardship was denied as a reason to demolish a historically designated structure in Weinberg v. City of Pittsburgh Architectural Review Commission 676 A.2d 207 (Pa 1996).

reasonable rate of return and that other potential uses of the property are foreclosed.¹⁶⁵

To the Commission, the argument that the purchase price was so high was because of competitive interest.¹⁶⁶ The property was in and of itself a demonstration that the sale of the property was not impractical.

On May 25, 1989, John Taxin applied for a demolition permit for the Elisha Webb Chandlery.¹⁶⁷ Taxin boldly stated to the PHC Architectural Committee that his reasoning for his request was his need for “additional parking in order to create the successful operation of his restaurant, Old Original Bookbinders.”¹⁶⁸ Taxin stated that if demolished, the Elisha Webb property would create an additional 36 surface parking spaces for Bookbinders. Mr. Taxin informed the Committee that, like David Brownlee suspected at the PHC Architectural Committee Meeting on August 31, 1988, there was much interest in the property and offers for the purchase of the property had been made. However due

¹⁶⁵ Philadelphia Code, 14-2007 (7)(j), Bill 318. APP 566-15.

¹⁶⁶ PHC Architectural Committee Meeting Minutes, August 31, 1988. At the same meeting, the testimony of James Tayoun, City Councilman was heard. Councilman Tayoun stated that a new hotel development was being planned for that are and therefore, in Councilman Tayoun's words, “Despite the significance of this building, the present proposal should be allowed, unless there were a firm commitment from someone present in the room to develop the property otherwise.” This plan for a hotel development is as, Dr. Tyler explained, the reason why the price was driven up so high at the auction. The Taxins were bidding in competition with another developer. 140-142 Front Street, which at this time was already a surface parking lot, was also auctioned on the same day as the Elisha Webb Chandlery. This lot was also incorporated in the hotel plan. The owner of 140-142 Front Street was probably the competitor bidding on the Elisha Webb Chandlery.

¹⁶⁷ PHC Architectural Committee Meeting Minutes, May 25, 1989, 6. Mr. Taxin must have known the provisions of the Ordinance in determining whether to purchase the premises and in calculating an appropriate price given the applicability of the Historic Preservation Ordinance. He was a Commissioner on the PHC before the McCrea Houses episode. Taxin also attempted to demolish another set of historically designated buildings adjacent to his restaurant, the Hancock Street Building, as described in Chapter 5.

¹⁶⁸ PHC Architectural Committee Meeting Minutes, May 25, 1989.

to his need for parking, Mr. Taxin had no intention of selling the property at that time.¹⁶⁹ Taxin also offered to possibly build a multistory garage to meet the needs of a higher volume of parking. However Taxin provided no construction drawings or plans for his proposed multistory garage.¹⁷⁰

In order to evaluate the financial aspects of Taxin's demolition request, Richard Cohen, a real estate appraiser who specializes in historic properties, was hired by the PHC. At the February 14, 1990, Board Meeting of the PHC, Mr. Cohen's report was presented. Mr. Cohen concluded that the 136 South Front Street property had a sale value of \$300,000 dollars; Mr. Taxin paid \$530,000 dollars for the parcel. Cohen stated that an

¹⁶⁹ PHC Meeting Minutes, February 14, 1990. In regards to Taxin's argument that he needed to demolish a locally designated property in order to improve his existing business, a similar situation had previously been overruled in Maheer v. City of New Orleans, 516 F.2d 1066. In Maheer the court held: "An ordinance forbidding the demolition of certain structures, if it serves a permissible goal in an otherwise reasonable fashion, does not seem on its face constitutionally distinguishable from ordinances regulating other aspects of land ownership, such as building height, set back or limitations on use Nor did Maheer demonstrate ... that a taking occurred because the ordinance so diminished the property value as to leave Maheer, in effect, nothing. In particular Maheer did not show that the sale of the property was impracticable, that commercial rental could not provide a reasonable rate of return, or that other potential use of the property was foreclosed." Maheer v. City of New Orleans, 516 F.2d 1066, Mayer, Supra. A similar court case in Pennsylvania, First Presbyterian Church of York v. City Council, 360 A.2d 257 (Pa. 1976) relied in the findings of the Maheer case and founded in favor of preservation. In First Presbyterian Church of York v. City Council, much like at Elisha Webb, the court established that: "The Church had provided little or no maintenance after it decided to raze the building for campus or parking use, that the Church had used a substantial portion of the lot on which the York House is located for the construction of a new parish house and that the Church refused offers from Public spirited persons or groups to purchase or make other arrangements to assume or share with the Church the burden of restoration and maintenance of the structure." The court founded that so long as "a property owner can sell his property at a fair market value, it would be difficult for a property owner to make a convincing case that denial of a demolition permit by a local preservation commission be itself constitutes a taking." "Demolition Control by Historic Preservation Commissions: The Connecticut and Pennsylvania Viewpoints," Preservation Law Update, 1987-35, September 1, 1987.

¹⁷⁰ Architectural Committee, Philadelphia Historical Commission Minutes, 25 May 1989. Penny Batcheler, of the National Park Service asked Taxin if he ever sought space to park at the garage adjacent to the Elisha Webb Chandlery. Taxin said that there was no parking available. Records indicate that the restaurant was offered a special rate of \$3.00 a slot from the Parking Authority. Bookbinder's Restaurant took advantage of this agreement only two times since they entered into it. Architecture Committee Meeting, PHC Minutes, 13, September 1989.

economic reuse of the property could have been reasonably adapted “consistent with historic preservation” if the purchase price had been more reasonable. After such rehabilitation, the owner would have been eligible for twenty (20%) percent rehabilitation credits and even a facade easement donation potentially worth approximately \$100,000.¹⁷¹

The 1985 Historic Preservation Ordinance stipulates that a demolition permit will be allowed only if it is “necessary in the public interest, or unless the Commission finds that the building, structure, site or object cannot be used for any purpose for which it may be reasonably adapted.”¹⁷² Richard Cohen’s real estate appraisal of the property proved that the Elisha Webb Chandlery could have been adaptively reused and been economically viable, if it had not been for Taxin’s self-imposed financial hardship. This fact plus the opinions of the Commission in regards to the public’s interest in this matter were taken into consideration. As determined by the Commission in the May 9, 1990 meeting, “Demolition to create a temporary solution to a parking problem, at the expense of a significant historic resource, is not sufficient to support demolition in the public interest.”¹⁷³ Based on these findings of the public’s interests and Cohen’s real estate

¹⁷¹ PHC Meeting Minutes, February 14, 1990. Old Original Bookbinders v. City of Philadelphia, Philadelphia Historical Commission, Board of Licenses and Inspection, City of Philadelphia, Appeal #2625, February 4, 1991. “That the owner cannot make a reasonable return. This provision, based on the Supreme Court decision in the Penn Central case, applies only in cases where the current owner held the structure before it was designated historic. Its intent was to prevent an unconstitutional ‘taking’. In the current proposal the owner purchased the structure after it was designated. Thus no taking has occurred. Since a ‘reasonable return’ is clearly based on the owner’s own choice to pay the amount he did, this provision does not apply. Few historic structures, if purchased for an amount commensurate with a cleared site, can withstand such a test.” Old City Civic Association, “Statement of the Elisha Webb Ship Chandlery, 136 South Front Street”, Philadelphia Historical Commission Archives, no date. (prior to demo.).

¹⁷² Philadelphia Code, 14-2007 (7)(j), Bill 318.

¹⁷³ Old Original Bookbinders v. City of Philadelphia, Philadelphia Historical Commission, L. and I. Board of Review, February 4, 1991, 11.

appraisal report, the Commission denied Taxins's application by a vote of 6-3 on May 9, 1990.¹⁷⁴

The Taxins appealed to the Licenses and Inspection Board of Review.

At the L. and I. Board of Review, the city solicitor, Maria L. Petrillo made a strong argument on behalf of the city that the proposed findings of fact established that the Elisha Webb Chandlery was historically significant on both the national and local levels. Based on this significance, the City had devised a way to protect the property beyond its national and local designations, with the Redevelopment Plan. Ms. Petrillo, also argued that the Taxins were aware, at the time of the purchase, of the building's historical designation and the associated development restrictions that were applied to this status. The Taxins did not meet the requirements for application of a demolition permit established in the 1985 Preservation Ordinance in regards to proof of their financial hardship:

Appellant failed to adduce any testimony that the sale of the property was impracticable. At no time did the owner indicate that he made any attempts to sell..... Richard Tyler, Historic Preservation Officer, testified on January 29, 1991, that he understood that Appellant was offered \$1.2 million dollars if he would sell the property to another developer.¹⁷⁵

These facts demonstrated Taxin's knowledge of the Historic Preservation Ordinance, but his obvious disregard for the Ordinance's restrictions. Despite these facts, the L. & I. Board of Review, however, ultimately found in favor of Taxin and in May

¹⁷⁴ PHC Meeting Minutes, May 9, 1990.

¹⁷⁵ Old Original Bookbinders v. City of Philadelphia, Philadelphia Historical Commission, L. and I. Board of Review. February 4, 1991.

1991, reversed the PHC's decision.¹⁷⁶ In response, the Historical Commission filed an appeal to the Common Pleas Court. However, in August, 1993, the City Solicitor's Office withdrew the Historical Commission appeal. This action was based on an order from Mayor Rendell, for reasons that are not publicly articulated. Since the City Solicitors Office and the Historical Commission are municipal agencies, they must comply with the Mayor's orders.¹⁷⁷ In response to the Mayor's decisions, Tyler had to sign the permit application for the demolition request.¹⁷⁸ Local newspapers at the time noted that Tyler was given a report from L. and I., which deemed the building as having been officially determined to be "imminently dangerous".¹⁷⁹ When L. and I. rate a locally designated building as "imminently dangerous", a demolition permit can be granted without requiring clearance at the monthly Commission meeting. When a building is rated as being "imminently dangerous", it is referred to as being "ID'ed". An ID'ed building will be approved for demolition immediately due to the building's risk to public safety. This is a common loophole in preservation policy because many buildings are ID'ed without receiving a proper study from a structural engineer. In Rich Thom's, the vice-president of OCCA's, opinion, "It is a way for L. and I. to get some work off of their desk forever - because the building will be demolished. If the building is just rated as being dangerous, L. and I. has to check up on repairs that have to be done." Originally if a building was ID'ed the owner had the choice to "repair or demolish" the building. To repair in this case meant

¹⁷⁶ Henry Goldman, "City Silent on who OK'd Demolition," Philadelphia Inquirer, October 20, 1993, B1.

¹⁷⁷ Dr. Tyler, Interview with Meghan MacWilliams 3/19/99.

¹⁷⁸ Ibid.

¹⁷⁹ Michael McGettigan, "Who Killed Elisha Webb?", Welcomat, October 27, 1993, no page number.

repair *everything* that was wrong with the building, even damages to the building that were not structural. With this ruling, people who wanted to keep their buildings, were forced to demolish them because they couldn't afford to repair *everything*. The present practice for an ID'ed property has been revised since the Elisha Webb incident, Now the "repair or demolish" provision has been adapted so that the repair that must be done is only for the structural damage that is causing potential danger to the public.¹⁸⁰

Typically, if the PHC can no longer argue a case, a private entity, such as the OCCA or the Preservation Alliance can step in and take the city to court. However in the case of the demolition of the Elisha Webb Chandlery, preservationists and neighborhood groups had no time to respond. These groups who worked for over four years to preserve this historic site were not made aware of the demolition permit until late Sunday night, October 17, 1993. Demolition of the irreplaceable Chandlery began at dawn on Monday, October 18, 1993.¹⁸¹

In defense of his decision to have the Elisha Webb Chandlery demolished, Mayor Rendell stated that the building had "no intrinsic historic value" and that the building had lain vacant for ten years with no one to develop it.¹⁸² It should be remembered that in 1965, under the administration of Mayor Tate, thousands of dollars in restoration costs funded the underpinning of the Elisha Webb building so that it would be spared from a

¹⁸⁰ Rich Thom, Interview with Meghan MacWilliams, March 12, 1999.

¹⁸¹ McGettigan, "Who Killed Elisha Webb?"

¹⁸² Henry Goodman, "City Silent on Who OKed Demolition," *Philadelphia Inquirer*, October 20, 1993, B1 & 5. Even if the site had no historic value, in *Falkner v. Town of Chestertown*, 428 A.2d 879 (Md 1981) the court stated that "The whole concept of historic zoning 'would be about as futile as shoveling smoke' if ... because a building being demolished had no architectural or historical significance a historic district commission was powerless to prevent its demolition."

deep sewer construction project on Front Street.¹⁸³ That the building had lain vacant, Rendell noted was not because people were not interested in buying it but because John Taxin refused to sell it.

In the words of Mayor Rendell, as quoted in the New York Times:

I would think that a parking lot looks better than an undeveloped, even a stabilized Elisha Webb house(sic). We have got to be conscious of the fact that if there is not economic development, there will be no money to do real preservation.¹⁸⁴

With the episode of the Elisha Webb Chandlery, not only was a self-imposed financial hardship again used as a reason for demolition, but another glaring loop hole in preservation policy of the PHC's 1985 Ordinance was revealed. The Commission, as a municipal agency, has to concur with the Mayor's decisions. The Mayor also appoints the eight members to the Commission beyond the six ex officio mandated by the 1985 Ordinance. If the Mayor is not for preservation, or, as in the case of the Elisha Webb Chandlery, if the Mayor does not concur in the importance of certain historic buildings of the city, the Commission in judgment and actions can be contained.

In order to help mitigate some of the effects of the PHC's limited power within City government, private preservation groups such as the OCCA and the Preservation Alliance of Greater Philadelphia have pursued battles, such as the previously mentioned McCrea houses, that the PHC could not pursue on its own. The Preservation Alliance was

¹⁸³ M. Richard Cohen, "Redevelopment Study of 136 South Front Street." Prepared for the PHC, February 1, 1990.

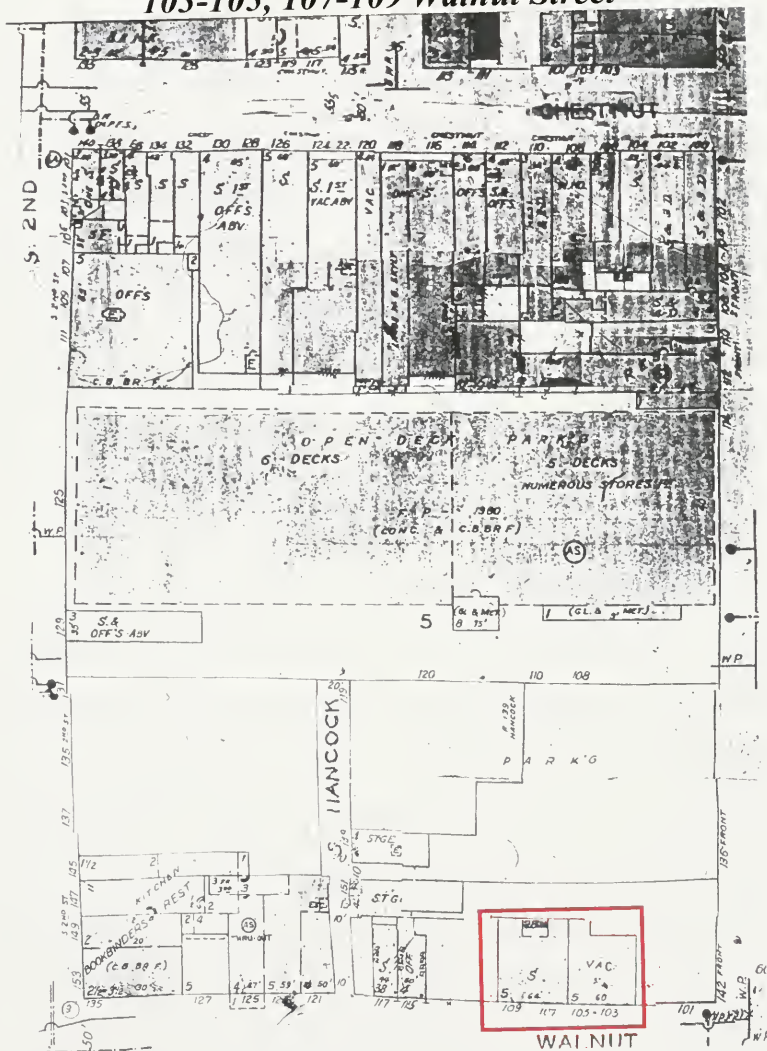
¹⁸⁴ Michael deCourcy Hinds, "Wrecker Ball Puts Gap in Historic Philadelphia," New York Times, March 30, 1994, A12.

created from two separate private non-profit preservation organizations, the Preservation Coalition of Greater Philadelphia, an advocacy and public policy group and the Philadelphia Historic Preservation Corporation, a technical services group. These two separate preservation organizations merged in May of 1996. This merger has joined two separate forces in preservation and made them each stronger together.¹⁸⁵ With the arguments for preservation issues being made from a private non-profit, they have a chance of being heard even if the Mayor is not in support of the issue. In the case of the Elisha Webb Chandlery, however, these private non-profit preservation groups simply did not have a chance to react.

¹⁸⁵ Randy Cotton, vice-president of the Preservation Alliance of Greater Philadelphia. Interview with Meghan MacWilliams, April 14, 1999.

Chapter 7

103-105, 107-109 Walnut Street



Sanborn 1994

With the demolition of many of the key historic buildings in the south side case study square block, such as the McCrea houses in 1984, the attempted demolition of 149 S. Hancock Street in 1987 and the abrupt demolition of the Elisha Webb Chandlery in 1993, the historical integrity of this area was rapidly diminishing into a large surface parking lot. The streetscape of Chestnut Street, the north side of the case study square block, remained intact with high architectural integrity. Chestnut Street was spared from demolition most likely because the Area F garage blocks Chestnut Street from the south side of the block and therefore the land would be of no use to “land bankers” and developers.

By 1994, the integrity of Walnut Street’s streetscape, which had briefly been the last saving grace of the south side of this historically designated block, was virtually lost to demolition. In April of 1994, the buildings of 115-117 Walnut Street were demolished by Peter Taraborelli. The buildings had been in the Taraborelli Family hands for over 60 years. They had vacated it 5 years prior to its demolition. Rich Thom describes the loss of these buildings as “the beginning of the end”.¹⁸⁶

103-105 and 107-109 Walnut Street, also known as Silvo’s Hardware store, were a pair of buildings contributing to the Old City National Register Historic District and

¹⁸⁶ Thom stated the buildings at 115-117 Walnut Street were “ID’ed” (imminently dangerous) by L. and I. staff and therefore were demolished. According to Thom, the L. and I. staff who inspected the buildings were not licensed structural engineers. Many times, due to the dangerous appearance of a building that is to be inspected, L. and I. staff will not go into the buildings to do a study on the building’s structural condition. Rich Thom. Interview with Meghan MacWilliams, March 12, 1999.

were also listed on the Philadelphia Register of Historic Places on May 26, 1970.¹⁸⁷ Like the other buildings that were on this block, these buildings were also part of the Redevelopment Plan and therefore had historic preservation restrictions.¹⁸⁸ Despite such restrictions, the owner of the buildings wanted to develop the site.

Proposals to develop Walnut Street are recorded as early as 1970, with plans for the ten room “Harbor Inn Hotel” at the corner of Front and Walnut Streets.¹⁸⁹ Subsequent plans for hotels, apartment buildings and/or office buildings have been submitted to the Commission for review on several occasions in the 1980s. The proposals all made the same argument; new construction in this area would be more economically viable due the location in the city and the availability of surrounding vacant land.¹⁹⁰

In 1990, a real estate assessment was made of the property by Louis A. Iatarola for the then current owner, American Historic Ventures III. The recommendations of Mr. Iatarola were that the subject property would derive many benefits afforded by the newly rehabilitated Delaware Avenue and Penn’s Landing projects.¹⁹¹ In order to gain the

¹⁸⁷ According to the deed between Interstate and Ocean Transport Company (Grantor) to Interstate Industries, Inc. (Grantee) on December 31, 1980, 103-103 Walnut Street, also holds the address, 140-142 Front Street. Quit-claim deed Number 664/S. 140-142 Front Street is also referred to in many of the studies devoted to this property. 140-142 Front was the vacant lot at the corner of Front and Walnut. The lot was featured at the same auction as the Elisha Webb Chandlery. 103-105, 107-109 Walnut Street were listed on the Philadelphia Register of Historic Places on May 26, 1970.

¹⁸⁸ PHC Archives, 103-105, 107-109 File.

¹⁸⁹ John Milner Associates, Plans for the Harbor Inn Hotel, 1970. PHC Archives, 103, 105 Walnut Street File.

¹⁹⁰ PHC Archives 103 - 105, 107-109 Walnut Street File. One of the most notable requests was submitted to the Architectural Committee on November 21, 1988. The American Historic Ventures III submitted plans for a hotel that was sympathetic to the buildings’ historic status. The plans involved a new six-story structure in the empty lot at 140-142 Front Streets that would abut the restored properties of 103-105, 107-109 Walnut Streets. This plan was approved and accepted by the Architectural Committee. Architectural Committee Meeting Minutes, November 21, 1988.

¹⁹¹ Louis A. Iatarola, MAI, SRPA, “Appraisal Report of 140-142 South Front Street, 107-109 Walnut Street, Philadelphia Pennsylvania,” Prepared for William Saber, August 21, 1990, 11.

highest value for the property, Mr. Iatarola recommended “that the existing structures be demolished and the entire site utilized as an open air commercial parking facility until such time as development of the Delaware River Corridor further progresses.”¹⁹²

On March 18, 1994, the buildings were rated as “imminently dangerous” by the Department of Licenses and Inspection. The violations to the Philadelphia Building Code were due to “loose bricks, missing and displaced upper floors, deteriorated cornice and that the building was in danger of falling.”¹⁹³ It was also noted that some of the windows of the building were open and allowing rain into the building. The violation ordered that the repairs be made immediately.¹⁹⁴

In a letter from Richard Thom, vice-president of OCCA, to Dr. Richard Tyler, Mr. Thom expressed his concern in regards to the neglect of the Walnut Street property:

Since early Spring of 1994, I have been noticing and documenting the deteriorating condition of the southeast corner of the front (Walnut Street) facade. As I mentioned at the Architectural Committee’s hearing on the Owner’s demolition request, there appear to be two forces at work permitting the brickwork to become cracked and dislodged above and below the last windows to the east. One is probably the settling of the easternmost foundation wall which faces alongside what is now a paved parking lot. This “differential settlement” is weakening overall support for the wall and may be as a result of the lack of proper

¹⁹² Iatarola, 21. PHC Architectural Committee Meeting Minutes, April 26, 1994. Based on Iatarola’s findings, American Historic Ventures III applied for a demolition permit based on financial hardship. On June 29, 1988 the properties were purchased for \$1,100,000 and are currently assessed at \$246,000. The PHC Architectural Committee transferred the demolition application to the PHC Financial Hardship Committee. There is no reference in the PHC Archives as to what, if anything, happened to the proposal at the Financial Hardship Committee.

¹⁹³ Robert Solvibile, Chief Contractual Services Unit, Department of L. and I., Memorandum regarding 140 South Front Street, also known as 105 Walnut Street, March 18, 1994.

¹⁹⁴ Philadelphia Department of Licenses and Inspection, Violation Notice to American Historic Ventures III, LTD in Reference to 140 South Front Street, a.k.a. 105 Walnut Street, March 18, 1994.

underpinning of the foundation left exposed and laterally unbraced after demolition. In addition, the subsequent poor site drainage along the paving seam with this east building wall is permitting water infiltration probably down to the level of the footings and further “undermining” structural bearing soil support for the wall.

Further promoting building deterioration is the lack of proper window security (boarding up) for those windows missing sash and full glazing. Several are missing this simple protection along the top floor and hence rain water can penetrate the exterior wall, weakening the mortar and causing excessive brick movement now evidenced on this facade. We urge you to arrange an L. and I. roof inspection, as well, to see if this is also a source of water into exterior masonry walls.¹⁹⁵

In September 28, 1994, L. and I. filed a second citation against the owners of 103-105 and 107-109 Walnut Street; they still had not made any repairs. The second citation from L. and I. indicated that the building “poses an imminent danger to the community, because of the building’s poor structural membrane.”¹⁹⁶ With the second violation, L. and I. ordered the owners to repair the building immediately or pay a fine of \$300 per week for each week the violation was not corrected.¹⁹⁷ In the Philadelphia Court of Common

¹⁹⁵ Richard Thom, A.I.A., Vice President of OCCA, Letter to Dr. Richard Tyler, Historic Preservation Officer of the City of Philadelphia, August 29, 1994. Many times L. and I. will not do a roof inspection because it generally entails the use of a helicopter to gain an adequate view of the roof without gaining entry into the building. However, in the case of 103-105, 107-109 Walnut Street, some of the evidence of the deterioration of the roof could be seen from the top of the Area F garage.

¹⁹⁶ Ibid. As Thom explained, in his letter, the owners left the roof to deteriorate so that the building was left open to the environment.

¹⁹⁷ 103-105 Walnut Street File, PHC Archives. Pennsylvania State Enabling Law only allows for a fine of up to \$300. States with a more modern interpretation of state enabling power, such as New York, allow a much higher fine to deter this practice of demolition by neglect. New York City has a violation for neglect of a building that starts at \$500 a day. If the needed repair is not made, the fine goes up to \$1,000. If the repair is not made (or in progress) by the third day, the fine goes up to \$1,500, etc. In order to add some teeth to Philadelphia’s considerably leaner fine, the PHC ruled that in the case of 103-105, 107-109 Walnut, each week that repairs to the building were not in progress would be recorded as a new violation. Therefore a new fine could be imposed on the owners each week until the repairs were made. Dr. Tyler, Interview with Meghan MacWilliams, March 19, 1999.

Pleas, City of Philadelphia vs. Interstate Industries, Inc. American Historic Venture, and American Historic Venture III, LTD., Court of Common Pleas, Civil Trial Division, September Term, No. 2883, January 30th, 1995, Joseph Pacetti, the developer of the property, for the owner of American Historic Ventures III, had agreed to assume responsibility for the repair of the imminently dangerous conditions of the building.¹⁹⁸

It should be noted that the only PHC records regarding 103-105, 107-109 Walnut Street, all indicate that the owner wanted to demolish the building based on financial hardship.¹⁹⁹ The PHC had no citations in regards to the buildings' lack of maintenance or demolition by neglect. This lack of records on the behalf of the PHC weakened the argument of preservationists, because the only recorded violation against the property owner is a citation of "imminently dangerous" under the city building code. The properties should have also been cited the violation of imminently dangerous against the Philadelphia Historical Preservation Ordinance.²⁰⁰

In May of 1995, the owner removed the flooring in 103-105 Walnut Street. "According to the owner, this occurred in order to inspect the joists to assess stabilization need."²⁰¹ This act is what ultimately led to the property's loss. In a 19th century loft building, such as this one, the floor joists act as structural members to the building's frame

¹⁹⁸ City of Philadelphia vs. Interstate Industries, Inc. American Historic Venture, and American Historic Venture III, LTD. Court of Common Pleas, Civil Trial Division, September Term, No. 2883, January 30th, 1995, 1.

¹⁹⁹ PHC Meeting Minutes, May 11, 1994.

²⁰⁰ Jennifer Goodman, Preservation Coalition of Greater Philadelphia, Memorandum to Early Warning Committee Members (Bennett Levin, Wayne Spilove, Richard Tyler and Jeff First), Regarding: 103 - 105 Walnut Street, June 9, 1995.

²⁰¹ PHC Architectural Committee, "Report on Alternative Uses for 103-105 & 107-109 Walnut Street." June 1, 1995. Thom, interview with Meghan MacWilliams, March 12, 1999.

by serving to tie the parallel walls together. The joists are braced by the flooring, which acts as a structural diaphragm. Without the flooring, to support the joists, many of the joists failed and the walls at 103-105 Walnut Street were free standing, which, of course, is very dangerous. As a masonry row construction, if 103-105 Walnut Street here to comes down, 107-109 Walnut Street could shortly follow, due to the loss of structural support from the adjacent building. Rich Thom alleged that the “missing and displaced upper floors” were removed by ‘midnight contractors’ as a means to get the building ‘ID’ed’ in order to receive a demolition permit”.²⁰² With no flooring, the building at 103-105 Walnut presented many health and safety issues, the building which had already been deemed as “imminently dangerous”. A demolition permit was finally granted when a fire was started in the building, possibly by homeless people. The unstable condition of the building proved to be very hazardous to the fire department, in the efforts to extinguish the fire at this property. Due to this major safety risk, in the interest of public safety, the Fire Marshall requested that the buildings be demolished immediately.

Because of Pacetti’s failure to comply with previous citations administered by L. and I. to repair the buildings due to their “imminently dangerous” condition and the purposeful act of negligence (removal of the flooring) that lead to the buildings’ demolition, Judge Russell Nigro ruled that Pacetti, must make a unprecedented \$100,000 contribution to the Mayor’s Preservation Stabilization Fund.²⁰³ Pacetti did pay at least

²⁰² Rich Thom, Interview with Meghan MacWilliams., March 12, 1999

²⁰³ Ibid. Judge Nigro decided on this trial “behind chambers,” so the only record that we have of the trials is through oral histories of those people who were involved, such as Rich Thom. According to Dr. Tyler, Pacetti did pay at least part of the fine. The PHC is unaware if he paid all of it. The money for the City’s Historical Stabilization Fund does not go to the PHC.

part of the fine. The PHC is unaware if he paid all of it. The Mayor's Preservation Stabilization Fund, is a fund that Mayor Rendell started in order to save historical buildings in Philadelphia that are in an emergency state of repair²⁰⁴. It is based on the discretion of the individuals to replenish the fund. Although the fund is still in existence today, there is no money in it. The money for the City's Historical Stabilization Fund does not go to the PHC, it goes to the Department of Licenses and Inspections. This fund was created shortly after the Elisha Webb Chandlery was demolished.²⁰⁵

The case of 103-105, 107-109 Walnut Street demonstrates yet another loophole in the PHC's 1985 Preservation Ordinance, although the owners at first presented their case for the need of demolition due to a condition of financial hardship, the owners utilized the loophole in regards to demolition due to a purposeful condition of "imminent danger." The incident at 103-105, 107-109 Walnut Street made it clear that the PHC needs more teeth in its ordinance in order to deter such blatant disregard of the PHC Preservation Ordinance.

²⁰⁴ Randal Baron, Interview with Meghan MacWilliams, April 14, 1999.

²⁰⁵ Ibid.

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While the properties directly behind Bookbinders have rapidly become a surface parking lot, Chestnut Street retains a high level of integrity of original design. The street has rejuvenated itself as an entertainment district with restaurants and clubs such as Oberon and The New Middle East. On the north side of Chestnut is a popular Irish bar and restaurant, The Plough and the Stars. The building housing it is itself a very successful adaptive reuse project of the former Corn Exchange Building.

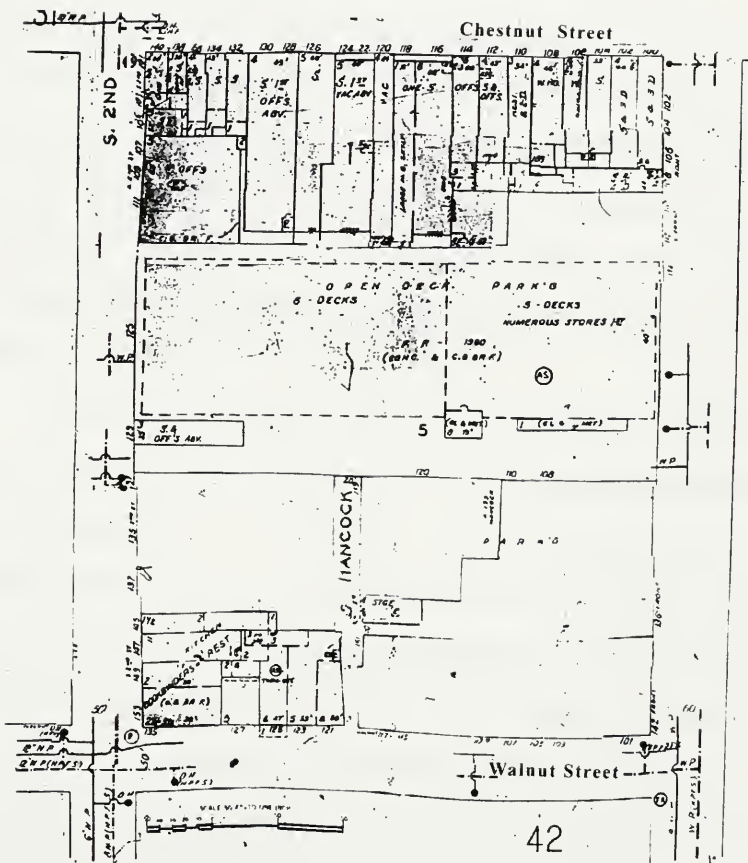
As early as 1981, before the demolition behind Bookbinders began, Venturi and Rauch carried out a planning study of Old City for the City Planning Commission, that suggested that Chestnut Street serve the city as a business improvement district.²⁰⁶ In concept, as a business improvement district, the business owners on the block would contribute a certain amount of money to public improvements in the area. Part of the goal behind this study was that if a business improvement district worked here then the program could be applied to surrounding streets. One of the points that Venturi and Rauch's study pointed out was that in order for the area to survive, parking had to be provided for visitors. The Area F parking garage serves part of this need.²⁰⁷ Venturi and Rauch's study shows that the city already recognized that this area of Old City was significant and worth revitalizing. Unfortunately the owners of the now demolished buildings behind Bookbinders could not foresee the potential success of the area that is now evident on Chestnut Street.

²⁰⁶ Venturi and Rauch, et al, "Old City Study" Philadelphia: Philadelphia City Planning Commission, 1981, Part A-17.

²⁰⁷ Ibid.

Chapter 9

Conclusion



Sanborn 1996

The case study square block bounded by Front, Second, Chestnut and Walnut Streets illustrates many of the problems that complicate preservation policy as it has evolved in Philadelphia. The Area F parking garage, the Thomas Bond Bed and Breakfast and the Welcome Park are all endeavors of a partnership between the City, the RDA and the N P S. The NPS acquired the land with its power of eminent domain. The acquisition of these properties were part of the master plan to develop INHP and make it more usable by the general public through such amenities as parking, lodging and interpretation of the historic surroundings.²⁰⁸

The remaining privately-owned properties within the southern half of the case study square block were to be protected by their local designation on the Philadelphia Register of Historic Places, as well as by the Redevelopment Proposal for Old City Unit #2 Redevelopment Area (also known as the Redevelopment Plan). Actions by private property owners led to this block's demise. Even though this entire area is part of a National Register Historic District, the Advisory Council on Historic Preservation was not involved in any of these demolition reviews, because no federal agencies were involved in the projects and therefore no Section 106 review was needed. The property owners in this area came to the PHC only because their properties were locally designated sites. As Tyler states, "There is a greater sense of private property rights then there was twenty years ago. Legally and culturally we (Philadelphians) are not at a good time right now."²⁰⁹

²⁰⁸ The interpretation of the surroundings is done at the Welcome Park.

²⁰⁹ Dr. Tyler. Interview with Meghan MacWilliams, March 19, 1999. To explain how private property rights have taken over the ideals of the public benefit and legitimate purpose of historic preservation that

With the exception of Bookbinders restaurant, only one property within that area, 149 South Hancock Street, remains standing.²¹⁰ The loss of the historical context of this early Philadelphia city block coincides with the lack of power of the PHC. The lack of power stems from the traditional interpretation of Pennsylvania's State Enabling Power and the limited power granted to the Commission under the Philadelphia Home Rule Charter. The PHC, like many local commissions, is to a large degree set up as a reactive organization in the city - not a proactive one.²¹¹ The 1985 Ordinance gives the PHC many powers to manage change to locally designated property for public welfare, but unfortunately with these powers come many unforeseen problems or loopholes that the PHC must find a way to close.

The loss of the McCrea Houses opened the eyes of preservationists in Philadelphia to the need to strengthen the local preservation ordinance. Although the PHC gained significant strength with the 1985 Ordinance, private property owners, as demonstrated in the evolution of the case study square block, uncovered loopholes in this new stronger

was established in the decision of Penn Central Transportation Co. v. City of New York, 366 N.E. 2d 1271, 1276-1277 (N.Y. 1977). Tyler referred to the footnote in the Lucas v. South Carolina Coastal Council 112 S. Ct. 2886 (1992). The footnote in Lucas states: "Regrettably, the rhetorical force of our 'deprivation of all economically feasible use' rule is greater than its precision, since the rule does not make clear the 'property interest' against which the loss of value is to be measured. When, for example, a regulation requires a developer to leave 90% of a rural tract in its natural state, it is unclear whether we would analyze the situation as one in which the owner had been deprived of all economically beneficial use of burdened portion of the tract, or as one in which the owner has suffered a mere diminution in value of the tract as a whole (For an extreme - and we think, insupportable - view of the relevant calculus, see Penn Central Transportation Co. v. New York City, 366 N.E. 2d 1271, 1276-1277 (N.Y. 1977)...)." ²¹⁰

²¹⁰ 149 South Hancock Street is owned by RDA. RDA gets most of its money through CDBG grants therefore the RDA will have to do a Section 106 Review before the building could come down.

²¹¹ A good example of how the PHC is a reactive organization is the episode with the Elisha Webb Chandlery. If the PHC was allowed to be in the sale of this building and others that are locally designated, the PHC could better ensure that the fair market value (historic preservation and rehabilitation provisions) was put on the properties to fight against later arguments for financial hardship.

Ordinance and utilized these loopholes to demolish their locally designated historic buildings. One significant loophole, that of self-imposed financial hardship, was used by the Taxins in their fight to demolish 149 South Hancock Street and the Elisha Webb Chandlery. The owners of 103-105, 107-109 Walnut Street also began their demolition application process with a financial hardship argument. In all three instances the self-imposed financial hardship was not found as a reason to grant a demolition permit. In response to these self-imposed financial hardships, the PHC created a Financial Hardship Committee, as one of the technical advisory committees to serve the Commission with its professional expertise. In order to make its decisions in regards to self-imposed hardships, this Committee requires supplementary financial information in addition to the basic information that the 1985 Ordinance mandated. The 1985 Historic Preservation Ordinance required that in cases of financial hardship, the applicant provide the following information: amount paid for the property, date of purchase, and from whom purchased, the most recent value assessment of the land and improvements, financial information for the previous two years, appraisals of the property, all listings of the property for sale or rent, and any considered adaptive reuses on the part of the owner. The additional information required for review by the Financial Hardship Committee includes, but is not limited to: cost estimates for the reasonable rehabilitation reuses of locally designated properties, a ten-year pro forma of projected revenues for these reasonable reuses that takes into consideration the utilization of tax incentives and other programs; and estimates of the current value of the property based upon a ten-year projection of income and

expenses and the sale of the property at the end of that period.”²¹² This additional information is just a portion of what the Financial Hardship Committee reviews to make their finance decisions. This aggressive review that the Hardship Committee applies to its applicants, for demolition permits, is successful in evaluating the claims of financial hardships. This Committee has been successful in reducing the number of self-imposed financial hardship cases.²¹³

A second major problem with preservation policy in Philadelphia, and one that was strongly utilized in several cases of the case study square block, is the loophole that the citation of “imminently dangerous” (ID) from the Department of L. and I. has created. The impact of receiving an ID rating was most evident in the Walnut Street buildings. Imminently dangerous buildings stem from an even larger problem that the PHC and L. and I. have in enforcing the maintenance provisions in the 1985 Ordinance. If a maintenance violation is continuously ignored, the building will suffer from neglect and possibly from a ultimately progressive neglected state that is described as “imminently dangerous” or “ID’ed” by the Department of L. and I. With an ID rating, the PHC has to sign the demolition permit immediately, as seen in the case of the Elisha Webb Chandlery. The review does not have to go through the monthly commission meetings like other demolition of historic properties because of the unsafe condition of the building and the possible harm it can cause the public.²¹⁴ As Bennet Levin, then Commissioner of L. and I.

²¹² PHC, Rules and Regulations, 1997, 40.

²¹³ Elizabeth Harvey, Interview with Meghan MacWilliams, March 30, 1999.

²¹⁴ PHC, Rules and Regulations, 1997, 36.

explains, “The department’s first responsibility is to ensure that buildings don’t fall on people - public safety issues”²¹⁵

If a private property owner, wants to develop his/her property, raze the historic building and build new, in many cases the easiest way to get a demolition permit is through an ID rating from L. and I. As demonstrated in the case of the Walnut Street buildings, with the removal of the flooring, a case of an ID’ed building can be self-imposed. If a building is rated as being imminently dangerous, an independent engineer will usually not contradict this rating, because of the high liability involved.

To stop the loss of numerous historic buildings through an ID rating, L. and I. has been working with the PHC in the attempt to close this loophole. Previously the wording for a violation of “imminent danger” specified that the property owner had to “repair or demolish” their building. The “repair” in this earlier definition referred to the entire building, not just to specific priority structural repairs. In this situation, many times building owners who wanted to repair their buildings were forced to demolish them because they could not afford to make all of the repairs in the violation. The earlier translation of this rating caused the loss of many historic buildings. Currently, in an attempt to reduce demolition, L. and I., created the practice of defining in the text of the violation the specific repairs which would affect the structural condition of the building. With this change in violation procedures, it is possible for owners to repair their buildings rather than demolish them.²¹⁶

²¹⁵ Prime Time, “Historic Loss, August 26, 1995.

²¹⁶ Rich Thom, Interview with Meghan MacWilliams, March 12, 1999.

Another very positive step that the PHC has taken is joining forces with L. and I. to adopt the same building code, the BOCA Maintenance Code, to monitor the maintenance condition of locally designated buildings. By monitoring maintenance conditions, as suggested in the 1985 Preservation Ordinance, the PHC will have an opportunity to stop demolition due to a condition of imminent danger. The Department of L. and I. is the city agency that will do the inspections and issue any violations. By using the same code, the PHC is bridging a potential gap between itself and other city agencies. This similarity in building codes will help property owners recognize that the PHC is not just about aesthetics, but also about building maintenance and safety. In the words of Dr. Tyler, the Historic Preservation Officer for the City of Philadelphia:

Within the last couple of years, the city has adopted the BOCA Maintenance Code as a way to fight demolition by neglect. That way if a building is not up to BOCA code, it does not meet the standards that is applicable to all buildings the owner receives a notice of what the building is in violation of in regards to the BOCA code, not just a general statement of demolition by neglect from the PHC's ordinance. Historic Preservation is not necessarily a priority from a lot of property owners in the city. L. and I. can issue violations under both the BOCA code and the PHC ordinance. If the owner doesn't comply, the city "buttons up" the building and puts a lien on it and if the owner doesn't respond to the lien, sheriff's sale.²¹⁷

Much of the problem with the PHC lies in the limited power granted to the Commission by the Philadelphia Home Rule Charter and the State Enabling Power of Pennsylvania. Dr. Tyler explained the PHC's dilemma in detail:

²¹⁷ Dr. Tyler, Interview with Meghan MacWilliams, March 19, 1999. This adoption of the BOCA code to serve both L. and I. and the PHC occurred after the buildings in the case study block went down.

There is a big difference between what the Feds (sic) can do & what we can do. The State Constitution plays a part at the local level, because, it's the state, not the Feds, who have the traditional police power: health, welfare, life safety and land use regulation. Pennsylvania is generally weak in its state enabling power. Pennsylvania also doesn't permit ... or doesn't encourage regional planning. Each municipality came up with its own planning and zoning. If they (planning and zoning ideas) were regional, then maybe we could better control sprawl or concentrate it, instead of working with each individual acre and a half lot. It's about time that Pennsylvania begins to think in regional terms, but we are not there yet.²¹⁸

Philadelphia does have potential. Recall that in Weinberg v. Pittsburgh, and First Presbyterian Church of York v. City Council, the Court ruled in favor of preservation.²¹⁹

It is possible to have preservation work in Pennsylvania, as long as its agenda does not conflict with that of the mayor in office. The mayor of Pittsburgh, at the time of the Weinberg case and the mayor of York in First Presbyterian Church of York Case were in favor of preservation. Dr. Tyler explained that he too had won some cases at the level of the L. and I. Board of Reviews.

In Philadelphia, the mayor can have strong influence and even final say in historic preservation issues on the city government level. Private agencies can challenge the city's decisions, but the PHC, being a city agency, cannot. Mayor Rendell does promote preservation that directly effects tourism (and Philadelphia's economy), such as the redesigning of the Independence Mall area. Unfortunately he has not interpreted the preservation of vernacular or contextextual architecture as beneficial to tourism (and

²¹⁸ Dr Tyler, Interview with Meghan MacWilliams, March 19, 1999.

²¹⁹ Weinberg v. Pittsburgh, 676 A.2d 207 (Pa. 1996) and First Presbyterian Church of York v. City Council, 360 A.2d 257 (Pa. 1976).

Philadelphia's economy) and therefore did not support the goals of preservationists in this case study block.²²⁰

Evidence of mayoral preservation decisions are illustrated all throughout this block. An excellent example of how crucial it is to have a mayor in office who is sympathetic to the goals of historic preservation is evident in the circumstances involving the Elisha Webb Chandlery. In 1965, when a deep sewer construction project along Front Street threatened the existence of this historic building, the mayor at the time of the incident, Mayor Tate, concurred with the PHC's decisions to invest public money in underpinning the Elisha Webb Chandlery in order to save it from the construction.²²¹ Mayor Rendell's response to the Elisha Webb Chandlery in 1993 was dramatically different; he chose to demolish the historic building. An additional example of how the mayor's input can directly affect the area can be seen with 149 South Hancock Street, which is still standing. In the battle to save 149 South Hancock Street, the PHC stressed that the Redevelopment Plan was created to save the properties in this square block. This court concurred with the PHC's findings and the mayor at the time, Mayor Goode, did not step in. The Redevelopment Plan however failed to serve the Elisha Webb Chadlery and the Walnut Street buildings, which were demolished under Mayor Rendell.²²²

²²⁰ As quoted in the *New York Times*, "Nothing makes me madder than preservationists," Rendell says, "Arts groups are almost as bad, but at least they produce some income. Preservationists don't produce anything." ---- "Mayor on a Roll," *New York Times*, May 22, 1994.

²²¹ Richard M. Cohen, "Redevelopment Study of 136 Front Street".

²²² The Redevelopment Plan also failed for the McCrea houses, but recall, this was because RDA, the agency behind the plan, was behind the construction of the hotel project, the Society Hill Sheraton. RDA was also behind the change in the sales agreement of the McCrea houses with the Taxins, in order to expedite the hotel project. In the case of the McCrea houses, RDA failed.

Mayor Rendell has stepped in to the preservation issues at the case study square block, most likely for the reason that the buildings were demolished with plans of new construction for a hotel along the river front. On the case study block, Mayor Rendell has established himself as someone who sees new construction, rather than preservation or contextual vernacular architecture as progress and a means of increasing tourism. As far as any goals for increasing tourism via new construction, past court holdings in preservation are relevant. For example, the value of economic impact of a historic preservation ordinance was established over fifty years ago, in 1941, with the Vieux Carre Ordinance in New Orleans:

The preservation of Vieux Carre as it was originally is a benefit to the inhabitants of New Orleans generally, not only for the sentimental value of this show place but for its commercial value as well, because it attracts tourists and conventions to the city, and is in fact a justification for the slogan, America's most interesting city.²²³

The PHC is working on closing the loopholes of financial hardship and demolition due to imminent danger of its 1985 Ordinance. The Commission is also working hard with L. and I. in monitoring regular maintenance of locally designated properties. The Philadelphia Home Rule Charter only allows a \$300 fine for anyone who violates a City

²²³ City of New Orleans v. Pergament, 5 So.2d, 131 (La. 1941). A similar type of case occurred in Maryland and like at City of New Orleans v. Pergament, the court upheld the local preservation ordinance for the good of the economy of tourism. The Supreme Judicial Court of Massachusetts upheld the state legislation designed to protect a historic area of Nantucket:

"We may also take judicial notice ... that the sedate and quaint appearance of the old island town has to a large extent still remained unspoiled and in all probability constitutes a substantial part of the appeal which has enabled it to build up its summer vacation business to take the place of its former means of livelihood.... It is not difficult to imagine how the erection of a few wholly incongruous structures might destroy one of the principal assets of the town...." Opinion of the Justices to the Senate, 128 N.E. 2d 557, 562 (Md. 1955)

Ordinance, but without incentives to save the locally designated historic buildings, the fines are worth the price paid by a developer to raze a building and build new. Dr. Tyler and the staff of the PHC are working hard to try to gain strength through the Philadelphia Historic Preservation Ordinance. Tyler is taking a liberal interpretation of some aspects of the Pennsylvania's State Enabling Power. For example, the state limits the fine that the PHC can impose to \$300 for a violation to the Historic Preservation Ordinance. The PHC considers every day to be a violation, in hopes that the steep fine will deter offenders.²²⁴

In the words Bennet Levin, former Commission of L. I. in regards to the case study square block:

It is regrettable that we have that bad block. We would all be better off if something would be put back there and put back there quickly. We are not going to replace everything that was there before. That block has been subject bad decision for the past 25 years.²²⁵

Mayor Rendell has set up a "Preservation Stabilization Fund" as a way to finance the maintenance of locally designated sites that are suffering from demolition by neglect. According to Randal Baron, of the Philadelphia Historical Commission, no money is put into the fund unless it is done voluntarily and although the money goes to locally designated sites, it is not controlled by the PHC, but L. and I.²²⁶ Mr. Baron is not aware of any recent donations made to the fund. In the case of 103-105, 107-109, where the

²²⁴ Dr. Tyler, Interview with Meghan MacWilliams, March 19, 1999. New York's Historic Preservation Ordinance has more teeth. The Commission has the power enforces a steep fine for buildings that are ordered to be repaired. \$1,000 the first day, \$5,000 the second day, \$10,000 3rd day. If the property owner cannot pay the fine, they risk losing their property to the city. It should be noted that New York State has hold a modern or proaesthetic view on State enabling police power.

²²⁵ "Historic Loss," *Prime Time*

²²⁶ Randal Baron, Interview with Meghan MacWilliams, April 14, 1999.

property owner was recognized in court as purposely causing the “imminently dangerous” condition that led to the properties demolition, the property owners were required to pay a fine of \$100,000 to the Preservation Stabilization Fund.²²⁷

In order to help prevent a recurrence of the events that led to an ever-growing surface parking lot in the southern half of the case study square block, it may be important for Philadelphia to consider developing a package of incentives to assist property owners to choose preservation. Some of the most common federal preservation incentives, the Federal Historic Preservation Tax Incentives Program and facade easement donations were not utilized. It has already been established in the PHC Meeting minutes from February 14, 1990 that new construction was being planned for this site, so the Federal Historic Preservation Tax Incentives and easement donations would not have been substantial enough to appease the financial desires for new development in this area. A possible preservation incentive that may have worked in the case study square block is Transfer of Development Rights (TDR). The properties in the area are zoned C3, which has a basic Floor Area Ratio (FAR) of 5, so if somebody had a 100% site coverage on their lot they could build 5 stories, but if somebody chose to build on only half of their lot they could build 10 stories.²²⁸ With TDRs, the private property owners who wanted to build new construction of the block could take their plans to a different lot in the area, spare the historic buildings in the case study area and still build their new development.

²²⁷ Ibid. The Philadelphia Home Rule Charter also states that a 90 day jail term can be imposed if someone violates a City Ordinance. In a purposeful creation of an imminently dangerous condition to a building, the guilty party should serve the jail term due to the potential danger to the public the guilty party has created.

²²⁸ Dr. Tyler, Interview with Meghan MacWilliams, March 19, 1999. by Dr. Tyler. As established in Chapter 3, this area has C3 Zoning with a FAR 500.

The private preservation organizations, such as the Preservation Alliance and the Old City Civic Association, have worked together with the PHC in order to strengthen the Commission's powers in the fight to save significant building stock. These preservation organizations, along with others around the city should try to join together with city agencies such as L. and I., RDA, and the City Planning Commission, in order to compromise on preservation issues and reach a common solution to strengthen each groups cause. As a joined force, these groups could establish a way that fines from violations on locally designated buildings paid to L. and I. are deposited into the Preservation Stabilization Fund. This money should be invested and eventually could serve as the seed money to create incentives for historic preservation in the city. This combined group of private and civic agencies will be beneficial on various levels, due to the combined strengths of the group and each agencies' relationships to the private level and the city government level. With the increased power and common goal of both preservation agencies and city agencies demolition and land banking like that at the case study square block, a once contributing block to the Old City National Register Historic District, can be mitigated.

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Old City
National Register Historic District



OLD CITY HISTORIC DISTRICT

Chapter 3

Area F

*South 2nd Street
c. 1970
PHC Archives*



South 2nd Street, 1999



Slate Roof House, 131 South 2nd Street, c. 1865
PHC Archives



Welcome Park, 1999



Chapter 4

McCrea Houses, 108-110 Sansom Street

c. 1983

PHC Archives



former site of McCrea houses, 1999.



Chapter 5

149 South Hancock Street

1999



Chapter 6
Elisha Webb Chandlery
136 South Front Street

c. 1977

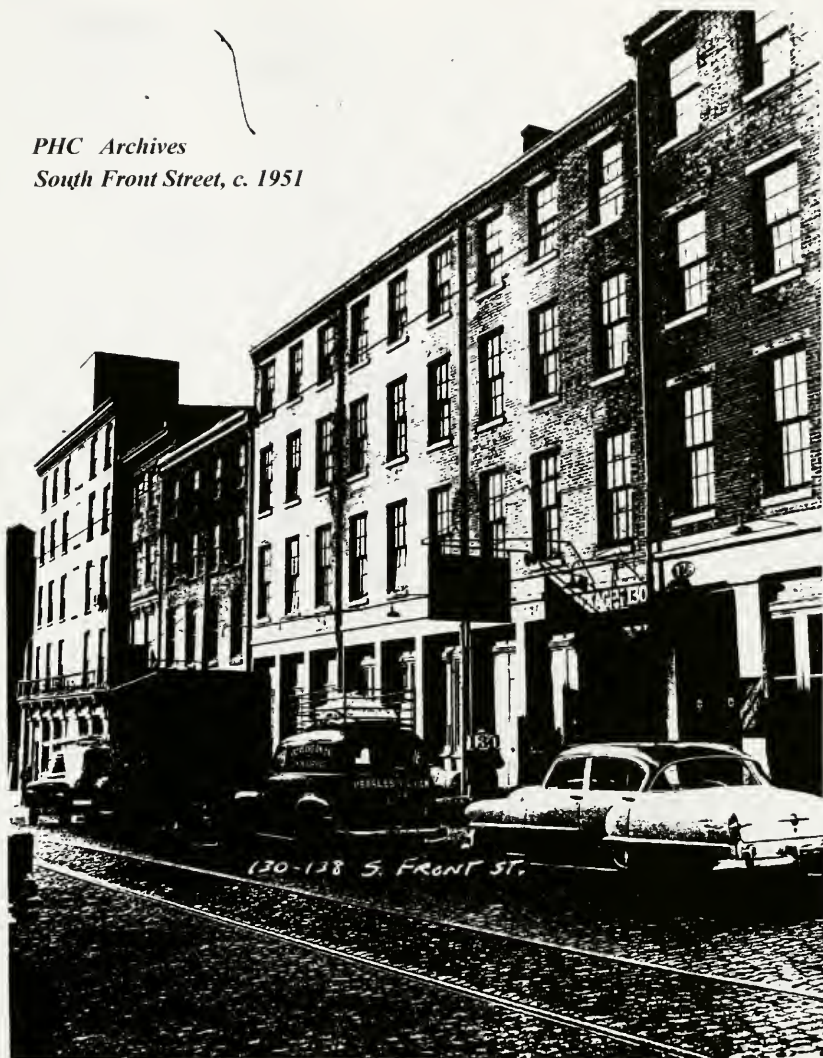
PHC Archives



Former site of Elisha Webb Chandlery
1999



PHC Archives
South Front Street, c. 1951



Chapter 7

103-105, 107-109 Walnut Street

c. 1959

PHC Archives



Former site of 103-105, 107-109 Walnut Street

1999



140-142 South Front Street

PHC Archives



Chapter 8

Chestnut Street

Chestnut Street, c. 1976
PHC Archives



Chestnut Street, 1999





(Bill No. 318)

AN ORDINANCE

Explanation
Italics indicate new matter added

Amending Section 14-2007 of The Philadelphia Code, entitled "Historic Buildings," by repealing all current provisions of Section 14-2007 and adding a new section 14-2007 in lieu thereof for the establishment of historic districts and the preservation and protection of historic buildings, structures, sites and objects, and buildings, structures, sites and objects which contribute to the character of historic districts under certain terms and conditions.

WHEREAS, The City of Philadelphia possesses unparalleled historic resources that foster the health, prosperity and welfare of its people and warrant preservation as a matter of public policy; and,

WHEREAS, The Mayor and Council of the City of Philadelphia created the Philadelphia Historical Commission in 1955 as an historic landmarks commission, the first in the nation with a City-wide jurisdiction; and,

WHEREAS, Legislation, experience and federal programs have changed the theory and practice of historic preservation markedly in the past twenty-nine (29) years; and,

WHEREAS, The Economic Recovery Tax Act of 1981 and the Tax Equity and Fiscal Responsibility Act of 1982 provide

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substantial federal tax incentives for the restoration and rehabilitation of properties on the National Register of Historic Places and for buildings within municipally established historic districts and thus provide a significant economic development tool for the City of Philadelphia; and,

WHEREAS, Recent amendments to the National Historic Preservation Act of 1966 afford the means for the City to participate actively in the National Register process through the certified local government program; and,

WHEREAS, The City of Philadelphia desires to conform to the federal guidelines for certified local governments; and,

WHEREAS, The citizens of Philadelphia have a constitutionally mandated right to preservation of their historic and besthetic environment; and,

WHEREAS, Section 1-102 of the Philadelphia Home Rule Charter of 1951 provides for the creation of new commissions when new powers and duties are "conferred on the City by amendment of the Constitution or by laws of the Commonwealth of Pennsylvania"; and,

WHEREAS, The Pennsylvania Constitution at Article I §27 was amended in 1971 to provide such powers and duties; and,

WHEREAS, The powers and duties of the Philadelphia Historical Commission are unique and do not conform to the powers and duties of any existing City agency; now, therefore,

The Council of the City of Philadelphia hereby ordains:

SECTION 1. Section 14-2007 of The Philadelphia Code entitled Historic Buildings is hereby repealed and deleted in its entirety and a new Section 14-2007 is added as follows:

**Section 14-2007 HISTORIC BUILDINGS
STRUCTURES, SITES, OBJECTS
AND DISTRICTS**

(1) Declaration of public policy and purposes

(a) It is hereby declared as a matter of public policy that the preservation and protection of buildings, structures, sites, objects and districts of historic, architectural, cultural, archaeological, educational and aesthetic merit are public necessities and are in the interests of the health, prosperity and welfare of the people of Philadelphia.

(b) The purposes of this section are to:

(.1) preserve buildings, structures, sites and objects which are important to the education, culture, traditions and economic values of the City;

(.2) establish historic districts to assure that the character of such districts is retained and enhanced;

(.3) encourage the restoration and rehabilitation of buildings, structures, sites and objects which are designated as historic or which are located within and contribute to the character of districts designated as historic without displacing elderly, long-term, and other residents living within those districts;

(.4) afford the City, interested persons, historical societies and organizations the opportunity to acquire or to arrange for the preservation of historic buildings, structures, sites and objects which are designated individually or which contribute to the character of historic districts;

(.5) strengthen the economy of the City by enhancing the City's attractiveness to tourists and by stabilizing and improving property values; and,

(.6) foster civic pride in the architectural, historical, cultural and educational accomplishments of Philadelphia.

(2) Definitions. The following words and phrases shall have the meaning ascribed to them in this section.

(a) Alter or alteration. A change in the appearance of a building, structure, site or object which is not otherwise covered by the definition of demolition, or any other change for which a permit is required under The Philadelphia Code of General Ordinances. Alteration includes the reroofing, cleaning or pointing of a building, structure or object.

(b) Building. A structure, its site and appurtenances created to shelter any form of human activity.

(c) Commission. The Philadelphia Historical Commission.

(d) Construct or construction. The erection of a new building, structure or object upon an undeveloped site.

(e) Contributing Building, Structure, Site or Object. A building, structure, site or object within a district that reflects the historical or architectural character of the district as defined in the Commission's designation.

(f) Demolition or demolish. The razing or destruction, whether entirely or in significant part, of a building, structure, site or object. Demolition includes the removal of a building, structure or object from its site or the removal or destruction of the facade or surface.

(g) Department. The Department of Licenses and Inspections.

(h) Design. Exterior features including mass, height, appearance and the texture, color, nature and composition of materials

(i) *District.* A geographically definable area possessing a significant concentration, linkage, or continuity of buildings, structures, sites or objects united by past events, plan or physical development. A district may comprise an individual site or individual elements separated geographically but linked by association, plan, design or history.

(j) *Historic Building.* A building or complex of buildings and site which is designated pursuant to this section or listed by the Commission under the prior historic buildings ordinance approved December 7, 1955, as amended.

(k) *Historic District, Object, Site or Structure.* A district, object, site or structure which is designated by the Commission pursuant to this section.

(l) *Object.* A material thing of functional, aesthetic, cultural, historic or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

(m) *Site.* The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical, cultural, or archaeological value regardless of the value of any existing structure.

(n) *Structure.* A work made up of interdependent and interrelated parts in a definite pattern of organization constructed by man and affixed to real property.

(3) *The Commission.* The Mayor shall appoint a Philadelphia Historical Commission consisting of the President of City Council or his designee, the Director of

Commerce, Commissioner of Public Property, the Commissioner of Licenses and Inspections, the Chairman of the City Planning Commission or the Chairman's designee, the Director of Housing or his designee, and eight other persons learned in the historic traditions of the City and interested in the preservation of the historic character of the City. At least one of the appointees shall be an architect experienced in the field of historic preservation; at least one of the appointees shall be an historian; at least one of the appointees shall be an architectural historian; at least one of the appointees shall be a real estate developer; at least one of the appointees shall be a representative of a Community Development Corporation; and at least one of the appointees shall be a representative of a community organization.

(4) Powers and Duties of the Commission. The powers and duties of the Philadelphia Historical Commission shall be as follows:

(a) Designate as historic those buildings, structures, sites and objects which the Commission determines, pursuant to the criteria set forth in Subsection (5) of this Section, are significant to the City;

(b) Delineate the boundaries of and designate as historic those districts which the Commission determines, pursuant to the criteria set forth in Subsection (5) of this Section, are significant to the City;

(c) Prepare and maintain or cause to be prepared and maintained a comprehensive inventory of historic buildings, structures, sites, objects, and districts;

(d) Review and act upon all applications for permits to alter or demolish historic buildings, structures, sites or objects; to alter or demolish buildings, structures, sites or

objects located within historic districts, and to review and comment upon all applications for permits to construct buildings, structures or objects within historic districts as provided in this section;

(e) Make recommendations to the Mayor and City Council concerning the use of grants, gifts and budgetary appropriations to promote the preservation of buildings, structures, sites, objects or districts of historic importance to the City;

(f) Make recommendations to the Mayor and City Council that the City purchase any building, structure, site or object of historic significance where private preservation is not feasible, or that the City acquire facade easements, development rights, or any other property interest that would promote historic preservation;

(g) Increase public awareness of the value of architectural, cultural and historic preservation;

(h) Adopt rules of procedure and regulations and establish such committees as the Commission deems necessary for the conduct of its business;

(i) Keep minutes and records of all proceedings, including records of public meetings during which proposed historic designations are considered.

(5) Criteria for Designation. A building, complex of buildings, structure, site, object or district may be designated for preservation if it;

(a) Has significant character, interest or value as part of the development, heritage or cultural characteristics of the City, Commonwealth or Nation or is associated with the life of a person significant in the past; or,

(b) *Is associated with an event of importance to the history of the City, Commonwealth or Nation; or,*

(c) *Reflects the environment in an era characterized by a distinctive architectural style; or,*

(d) *Embodies distinguishing characteristics of an architectural style or engineering specimen; or,*

(e) *Is the work of a designer, architect, landscape architect or designer, or engineer whose work has significantly influenced the historical, architectural, economic, social, or cultural development of the City, Commonwealth or Nation; or,*

(f) *Contains elements of design, detail, materials or craftsmanship which represent a significant innovation; or,*

(g) *Is part of or related to a square, park or other distinctive area which should be preserved according to an historic, cultural or architectural motif; or,*

(h) *Owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community or City; or,*

(i) *Has yielded, or may be likely to yield, information important in pre-history or history; or*

(j) *Exemplifies the cultural, political, economic, social or historical heritage of the community.*

(6) Public Notice and Meeting.

(a) *At least thirty (30) days before holding a public meeting to consider the proposed designation of a building, structure, site or object as historic, the Commission shall send notice to the owner of the property proposed for designation.*

Such notice shall indicate the date, time and place of the public meeting at which the Commission will consider the proposed designation. Notice shall be sent to the registered owner's last known address as the same appears in the real estate tax records of the Department of Revenue and sent to "Owner" at the street address of the property in question.

(b) At least sixty (60) days before holding a public meeting to consider the proposed designation of a district as historic, the Commission shall send written notice of the proposed designation to the owners of each building, structure, site or object within the proposed district. The notice shall indicate the date, time and place of the public meeting at which the Commission will consider the proposed designation. Notice shall be sent to the registered owner's last known address as it appears in the real estate tax records of the Department of Revenue and sent to "Owner" at the street address of the property in question. The Commission shall publish notice of the proposed designation of a district as historic in a newspaper having general circulation within the City at least sixty (60) days before the Commission holds a public meeting to consider the proposed designation. The Commission shall post notice of the proposed designation at locations within the proposed district at least sixty (60) days before the public meeting to consider the proposed designation.

(c) Any interested party may present testimony or documentary evidence regarding the proposed designation of a building, structure, site, object or district at the public meeting of the Commission.

(d) During the sixty days prior to a Commission hearing on designation of a particular historic district, the

City Planning Commission shall review and comment on creation of the district and transmit its comments to the Historical Commission to assist the Commission in making its determination.

(e) The Commission shall send written notice of the designation as historic of a building, structure, site, object, or district to the owners of each separately designated building, structure, site or object and to the owners of each building, structure, site, or object within a district designated historic, which shall include reason for the designation. Notice shall be sent to the registered owner's last known address as the same appears in the real estate tax records of the Department of Revenue and sent to the "Owner" at the street address of the property in question. The Commission shall send written notice of historic designation to any person appearing at the public hearing who requests notification.

(f) Any designation of a building, structure, site, object or district as historic may be amended or rescinded in the same manner as is specified for designation.

(g) The Commission shall compile a register of buildings, structures, sites, objects and districts designated as historic by the Commission which shall be available for public inspection in the offices of the Commission, the Department, and the Department of Records.

(7) Permits

(a) Unless a permit is first obtained from the Department, no person shall alter or demolish an historic building, structure, site or object, or alter, demolish, or construct any building, structure, site or object within an historic district.

(b) When a person applies for a permit to demolish a historic building, structure, site or object or a building, structure, site or object located within an historic district, the Department shall post, within seven (7) days, notice indicating that the owner has applied for a permit to demolish the property; that the property is historic or is located within an historic district; that the application has been forwarded to the Commission for review. The notice shall be posted on each street frontage of the premises with which the notice is concerned and shall be clearly visible to the public. Posting of a notice shall not be required in the event of an emergency which requires immediate action to protect the health or safety of the public. No person shall remove the notice unless the permit is denied or the owner notifies the Department that he will not demolish the property.

(c) Before the Department may issue a permit to alter or demolish an historic building, structure, site or object, or to alter, demolish or construct a building, structure, site or object within an historic district, the permit application shall be forwarded to the Commission for its review.

(d) The Commission's scope of review of applications for permits for construction, as defined herein, shall be limited to a forty-five (45) day period of comment.

(e) At the time that a permit application is filed with the Department for alteration, demolition or construction subject to the Commission's review, the applicant shall submit to the Commission the plans and specifications of the proposed work, including the plans and specifications for any construction proposed after demolition and such other information as the Commission may reasonably require to exercise its duties and responsibilities under this section.

(f) In any instance where there is a claim that a building, structure, site or object cannot be used for any purpose for which it is or may be reasonably adapted, or where a permit application for alteration, or demolition is based, in whole or in part, on financial hardship, the owner shall submit, by affidavit, the following information to the Commission;

(.1) amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship, whether business or familial, if any, between the owner and the person from whom the property was purchased;

(.2) assessed value of the land and improvements thereon according to the most recent assessment;

(.3) financial information for the previous two (2) years which shall include, as a minimum, annual gross income from the property, itemized operating and maintenance expenses, real estate taxes, annual debt service, annual cash flow, the amount of depreciation taken for federal income tax purposes, and other federal income tax deductions produced;

(.4) all appraisals obtained by the owner in connection with his purchase or financing of the property, or during his ownership of the property;

(.5) all listings of the property for sale or rent, price asked, and offers received, if any;

(.6) any consideration by the owner as to profitable, adaptive uses for the property;

(.7) the Commission may further require the owner to conduct, at the owner's expense, evaluations or studies, as

are reasonably necessary in the opinion of the Commission, to determine whether the building, structure, site or object has or may have alternate uses consistent with preservation.

(g) Within sixty (60) days after receipt by the Commission of a permit application, the Commission shall determine whether or not it has any objection to the proposed alteration or demolition.

(.1) where the Commission has no objection, the Department shall grant the permit subject to the requirements of any applicable provisions of the Code and regulations and subject to any conditions of the Commission pursuant to the subsection (7)(i).

(.2) where the Commission has an objection, the Department shall deny the permit.

(.3) where the Commission acts to postpone the proposed alteration or demolition pursuant to subsection (7)(h) of this Section, the Department shall defer action on the permit application pending a final determination by the Commission approving or disapproving the application. Before taking any action, the Commission shall afford the owner an opportunity to appear before the Commission to offer any evidence the owner desires to present concerning the proposed alteration or demolition. The Commission shall inform the owner in writing of the reasons for its action.

(h) Where the Commission has determined that the purpose of this section may best be achieved by postponing the alteration or demolition of any building, structure, site or object subject to its review, the Commission may, by resolution, defer action on a permit application for a designated period not to exceed six months from the date of

the resolution. During the time that action on a permit application is deferred, the Commission shall consult with the owner, civic groups, public and private agencies, and interested parties to ascertain what may be done by the City or others to preserve the building, structure, site or object which is the subject of the permit application. When appropriate, the Commission shall make recommendations to the Mayor and City Council.

(i) The Commission may require that a permit for the alteration or demolition of any building, structure, site, or object subject to its review be issued subject to such conditions as may reasonably advance the purposes of this section. The Department shall incorporate all such requirements of the Commission into the permit at the time of issuance. In cases where the Commission, pursuant to subsection (7)(j) of this section, agrees to the demolition of an historic building, structure, site or object, or of a building, structure, site or object located within an historic district which contributes, in the Commission's opinion, to the character of the district, the Commission may require that the historic building, structure, site, or object be recorded, at the owner's expense, according to the documentation standards of the Historic American Buildings Survey and the Historic American Engineering Record (HABS/HAER) for deposit with the Commission.

(j) No permit shall be issued for the demolition of an historic building, structure, site or object, or of a building, structure site or object located within an historic district which contributes, in the Commission's opinion, to the character of the district, unless the Commission finds that

issuance of the permit is necessary in the public interest, or unless the Commission finds that the building, structure, site or object cannot be used for any purpose for which it is or may be reasonably adapted. In order to show that building, structure, site or object cannot be used for any purpose for which it is or may be reasonably adapted, the owner must demonstrate that the sale of the property is impracticable, that commercial rental cannot provide a reasonable rate of return and that other potential uses of the property are foreclosed.

(k) In making its determination as to the appropriateness of proposed alterations, demolition or construction, the Commission shall consider the following:

- (.1) the purposes of this section;*
- (.2) the historical, architectural or aesthetic significance of the building, structure, site or object;*
- (.3) the effect of the proposed work on the building, structure, site or object and its appurtenances;*
- (.4) the compatibility of the proposed work with the character of the historic district or with the character of its site, including the effect of the proposed work on the neighboring structures, the surroundings and the streetscape; and,*
- (.5) the design of the proposed work.*
- (.6) in addition to the above, the Commission may be guided in evaluating proposals for alteration or construction by the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" or similar criteria.*

(.7) in specific cases as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship so that the spirit of this ordinance shall be observed and substantial justice done, subject to such terms and conditions as the Commission may decide, the Commission shall by a majority vote grant an exemption from the requirements of this ordinance.

(l) The Department shall not issue any permit for the demolition, alteration or construction of any building, structure, site or object which is being considered by the Commission for designation as historic or which is located within a district being considered by the Commission for designation as historic where the permit application is filed on or after the date that notices of proposed designation have been mailed, except that the Department may issue a permit if the Commission has approved the application or has not taken final action on designation and more than ninety (90) days have elapsed from the date the permit application was filed with the Commission. Where the Commission takes final action on designation within the time allotted herein, any permit application on file with the Department shall be deemed to have been filed after the date of the Commission's action for purposes of this section.

(8) Performance of Work and Maintenance

(a) The Department shall, upon the request of the Commission, examine the buildings, structures, sites and objects designated as historic by the Commission and report to the Commission on their physical condition.

(b) All work performed pursuant to the issuance of a permit for the alteration or demolition of a building, structure, site or object subject to the Commission's review shall conform to the requirements of such permit. It shall be the duty of the Department to inspect from time to time any work performed pursuant to such permit in order to ensure compliance. In the event that work is not being performed in accordance with the permit requirements, the Department shall issue a stop work order and all work shall cease until the work is brought into conformity with the requirements of the permit.

(c) The exterior of every historic building, structure and object and of every building, structure and object located within an historic district shall be kept in good repair as shall the interior portions of such buildings, structures and objects, neglect of which may cause or tend to cause the exterior to deteriorate, decay, become damaged or otherwise fall into a state of disrepair.

(d) The provisions of Section 14-2007 shall not be construed to prevent the ordinary maintenance or repair of any building, structure, site or object where such work does not require a permit by law and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, a building, structure site or object and to restore the same to its condition prior to the occurrence of such deterioration, decay or damage.

(9) Enforcement

(a) The Department is authorized to promulgate regulations necessary to perform its duties under this Section.

(b) The Department may issue orders directing compliance with the requirements of this Section. An order shall be served upon the owners or person determined by the Department to be violating the requirements of this Section. If the person served is not the owner of the property where the violation is deemed to exist or to have occurred, a copy of the order shall be sent to the last known address of the registered owner and a copy shall be posted on the property. Where the owner's address is unknown, a copy of the order shall be posted on the property.

(c) Any person who violates a requirement of this Section or fails to obey an order issued by the Department shall be subject to a fine of three hundred (300) dollars or in default of payment of the fine, imprisonment not exceeding ninety (90) days.

(d) Any person who alters or demolishes a building, structure, site or object in violation of the provisions of Section 14-2007 or in violation of any conditions or requirements specified in a permit shall be required to restore the building, structure, site or object involved to its appearance prior to the violation. Such restoration shall be in addition to and not in lieu of any penalty or remedy available under the Code or any other applicable law.

(10) Appeals

Any person aggrieved by the issuance or denial of any permit reviewed by the Commission may appeal such action to the Board of License and Inspection Review. Such appeal must be filed within fifteen (15) days of the date of receipt of notification of the Commission's action. The Board of License and Inspection Review shall give written notice of any such appeal to the Commission within three (3) days of the filing of the appeal.

SECTION 2. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 3. This ordinance shall take effect April 1, 1985.

Explanation

Italics indicate new matter added

CERTIFICATION: This is a true and correct copy of
the original Ordinance approved by the Mayor on

_____ DEC. 31 1984

Charles H. Sawyer Jr.

Chief Clerk of the Council



(Bill No. 493.)

AN ORDINANCE

To regulate the demolition of historic buildings in the City of Philadelphia; providing for the appointment of an Advisory Commission on Historic Buildings; prescribing duties for the Department of Public Property and for the Department of Licenses and Inspections; providing for a list and classification of historic buildings; providing for the postponement of the demolition of certain historic buildings; and providing penalties for violations thereof.

The Council of the City of Philadelphia hereby ordains:

SECTION 1. *Declaration of Policy and Purpose.* The Council hereby finds:

(a) The City of Philadelphia has numerous historic buildings, the preservation of which is important to the education, culture, traditions and economic values of this City.

(b) The preservation of such historic buildings bears a substantial relation to the public welfare.

(c) Many historic buildings have been demolished without affording the City or interested persons, historical societies or organizations an opportunity to acquire or

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to arrange for the preservation of such buildings. Such demolitions have a detrimental effect on cultural, historic and economic values in the City.

SECTION 2. *Definitions.* In this ordinance, the following definitions apply:

(a) *Department.* The Department of Public Property.

(b) *Commission.* The Advisory Commission on Historic Buildings.

(c) *Person.* An individual, partnership, corporation, or association, including those acting in a fiduciary or representative capacity whether appointed by a court or otherwise. Whenever used in any clause prescribing or imposing a penalty, the term "Person" as applied to partnerships or associations shall include the partners or members thereof, and if applied to corporations, the officers thereof.

SECTION 3. *Advisory Commission on Historic Buildings.*

(a) The Mayor is hereby authorized to appoint a Commission consisting of the Director of Finance, the Commissioner of Public Property and five persons learned in the historic traditions of the City, and interested in preserving the historic buildings of the City, to serve as an advisory commission in the Department of Public Property.

(b) This commission shall be known as the Advisory Commission on Historic Buildings and shall be charged with the responsibility of carrying out the duties prescribed by this ordinance.

SECTION 4. *List and Classification of Historic Buildings.*

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(a) The Department of Public Property with the aid of the Commission shall prepare a list of buildings in the City of Philadelphia which the Advisory Commission deems historically significant to the City.

(b) In so far as practical, the historic buildings shall be listed in convenient classifications based upon their historical significance.

(c) The Department of Licenses and Inspections shall examine all of the buildings set forth in such list and report to the Commission on the physical condition of each building.

(d) A copy of the above list of historic buildings shall be available for public inspection in the Department of Records and in the Department of Licenses and Inspections.

SECTION 5. *Permits.*

(a) Any person wishing to demolish or alter any building appearing on the list required under Section 4, must obtain a permit to do so from the Department of Licenses and Inspections.

(b) Upon receiving any such application, the Department of Licenses and Inspections shall immediately forward it to the Department of Public Property for its recommendation.

(c) The Department of Public Property shall consult with the Commission, and after receiving the advice of the Commission, shall, within 60 days after the date of the application, make a recommendation as follows:

(1) That the Department has no objection to the demolition or alteration of the building.

(2) That the Department recommends that the purposes set forth in Section 1 may be best achieved by post-

poning the demolition or alteration for a designated period.

(d) If the Department reports that it has no objection to the demolition or alteration, then the Department of Licenses and Inspections may grant a demolition or alteration permit, subject to the requirements of any other applicable ordinances.

(e) If the Department concludes that the demolition or alteration should be postponed, it shall, before issuing any final order with respect to such postponement, afford the applicant an opportunity to appear before the Commission to offer such evidence as the applicant may desire to present concerning such proposed order. Any order issued by the Department postponing any proposed demolition shall be for a period of not in excess of six months, and in such cases, the Department of Licenses and Inspections shall not grant the permit during the time specified.

SECTION 6. *Measures for Preservation.*

(a) Within the period of postponement of the demolition or alteration of any building, the Department of Public Property, with the aid of the Commission, shall take steps to ascertain what the City of Philadelphia can do to preserve the historic building, and it shall make recommendations to that effect to the Council.

(b) The Department, with the aid of the Commission, shall consult with private civic groups, interested private citizens and with other public agencies, in an effort to preserve the historic buildings of the City.

SECTION 7. *Cooperation of Other Agencies.* All City agencies are directed to cooperate with the Department of Public Property and the Commission in order to carry out the purposes of this ordinance.

APP. NO. 830-4

SECTION 8. *Annual Report.* The Commission shall issue an annual report to the Council reviewing its work for the previous year, and making recommendations for the future preservation of historic buildings.

SECTION 9. *Penalties.* Any person violating the provisions of this ordinance shall be subject to a fine of not exceeding three hundred (300) dollars or ninety (90) days imprisonment, or both.

SECTION 10. *Effective Date.* This ordinance shall be effective upon its enactment.

APP. NO. 639-B

CERTIFICATION: This is a true and correct copy of the original Ordinance approved by the Mayor on the seventh day of December, 1955.

Nathan Wolfman

Chief Clerk of the Council

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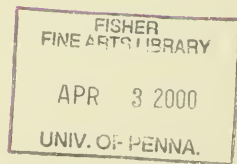
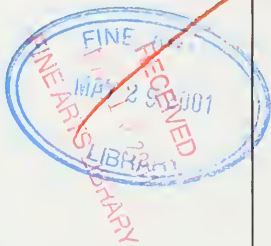
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